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OF THE

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OF THE

STATE OF CALIFORNIA

VOLUME XXIX

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CALIFORNIA RAILROAD COMMISSION DECISIONS.

DECISION NO. 17701.

W. P. FULLER AND COMPANY

vs

SOUTHERN PACIFIC COMPANY.

Case No. 2204.

Decided December 2, 1926.

RATES—STEAM RAILROAD—LINSEED OIL—TANK CARS.—It is found that the rate of 38½ cents per 100 pounds, assessed for the transportation of linseed oil in tank cars from South San Francisco to Los Angeles, is not unjust, unreasonable, excessive nor discriminatory.

Leonard and Desch, by *Fred T. Leonard*, for Complainant.
J. E. Lyons, for Defendant.

BY THE COMMISSION.

OPINION.

Complainant, a corporation, with its principal place of business at San Francisco, is engaged in manufacturing paints, also selling paints, oils and glass. By complaint duly filed and as amended at the hearing, it is alleged that the rate assessed and collected on fifteen tank carloads of linseed oil, as set forth in Exhibit "A" of the complaint and moved during the period from October 21, 1922, to March 23, 1923, from South San Francisco to Los Angeles, was unjust and unreasonable in violation of section 13 (*a*) of the Public Utilities Act and unduly preferential and discriminatory in violation of section 19 of the act to the extent it exceeded a rate of 31½ cents per 100 pounds. The statute of limitations was tolled on the shipments by registration of the claim with this Commission November 12, 1924, under Informal Complaint No. 31688.

Reparation and a rate for the future are sought. Rates will be stated in cents per 100 pounds.

A public hearing was held before Examiner Geary at San Francisco May 17, 1926, and the case being duly submitted and briefs filed is now ready for our opinion and order.

Complainant's shipments were all made in special tank cars and the lawfully applicable rate was and now is 38½ cents, being the fifth class published in Southern Pacific Company's Tariffs 711-series.

South San Francisco is located on the Southern Pacific 9.3 miles south of San Francisco, is included within the San Francisco switching limits, and is 457 miles from Los Angeles.

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Complainant's witness contended that the rate from San Francisco to Los Angeles on the linseed oil in tank cars should not exceed a contemporaneous commodity rate of 31½ cents on linseed oil in packages, and compared the rate sought with a commodity rate of 31½ cents applicable on cocoanut oil in tank cars from San Francisco to Los Angeles and on cottonseed oil in tank cars from Los Angeles to San Francisco. However, cocoanut oil and cottonseed oil admittedly are not competitive with linseed oil.

Complainant was unable to show a regular movement of linseed oil in tank cars and at the hearing its witness testified that only one tank car had moved during the first 4½ months of 1926 from its plant at South San Francisco to Los Angeles. Defendant's Exhibit No. 1 discloses that all of the fifteen special tank cars employed in the movement of this oil from San Francisco to Los Angeles were returned empty to San Francisco. The actual loaded mileage was 6930 and the empty mileage 6931.6, the slight difference being due to two of the cars having returned to Oakland; in other words, the empty car mileage was more than 100 per cent of the loaded car mileage, whereas for all freight cars during the same period of time the empty freight car mileage was but 48.97 per cent.

Defendant offered a number of comparative exhibits purporting to show that the rate under attack was not unreasonable and that the rate sought, applying to linseed oil in packages, was depressed, established to meet water competition and, therefore, not applicable at intermediate points. Steamer lines between northern and southern California ports handle linseed oil in packages, but are not equipped and do not handle this commodity in tank cars, therefore the rail carriers have not published a subnormal rate in tank cars, such as was necessary in the establishment of the low rate of 31½ cents for the oil in packages.

Witness for defendant testified that all class and commodity rates between San Francisco and Los Angeles are depressed because of the acute competition of the steamship companies. An exhibit showed that the fifth class rates from San Francisco to points intermediate to Los Angeles are very much higher than the fifth class rates to Los Angeles, the maximum being 66½ cents at Mojave on the Valley line and 60 cents at Chatsworth on the Coast route, as compared with the fifth class of 38½ cents to Los Angeles. Permission to publish lower rate to Los Angeles than applicable at the intermediate points was first authorized by this Commission February 15, 1912, by a preliminary order in Case No. 214–A and was ratified June 19, 1916, by Decision No. 3436 (10 C. R. C. 354).

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Competition with water carriers has been accepted by the Commission as a justification for rates lower than normal, but the existence of water-compelled rates is not, in and of itself, a basis upon which a shipper may demand a rate lower than the carrier finds proper to voluntarily publish to meet the water competition.

The evidence and exhibits show that the assessed rate of 38½ cents for tank car movement, with earnings of 16.85 mills per ton mile for 457 miles, the distance from South San Francisco to Los Angeles, is lower than the ton mile earnings on various similar commodities moving in tank cars for approximately the same distance.

It can not be said that the depressed rate of 31½ cents applicable on linseed oil in packages, established to meet the active water competition, should be a measure of the rate on shipments in special tank cars where the conditions and circumstances attending the transportation are not similar and where the competing steamship lines are not equipped to transport the bulk commodity in car lots.

To constitute discrimination or preference a carrier must charge one shipper a greater or less amount than another for the transportation of a like kind of traffic under similar circumstances and conditions. To be unjust, discrimination must be unlawful, that is, forbidden by law, and those acts of the carrier which constitute unjust discrimination are questions of fact to be ascertained from the evidence. There was no evidence offered by complainant to support its allegation of undue preference or undue discrimination.

Shippers are entitled to reasonable and nondiscriminatory rates on whatever traffic they ship, but in a situation of this kind a merely contemporaneous rate on cocoanut oil and cottonseed oil, commodities not in competition with linseed oil, is not controlling. A lower rate, 31½ cents, is provided for shipments of linseed oil in packages, which rate has been taken advantage of on several occasions by complainant, but was not employed on the shipments involved for the reason it was more economical to ship in tank cars.

After consideration of all the testimony, exhibits and briefs we are of the opinion and find that the rate charged was not unjust or unreasonable, nor was it preferential or discriminatory. The record is convincing that for the future the fifth class rate is reasonable and proper for the sporadic movement in tank cars.

The complaint will be dismissed.

ORDER.

This case being at issue upon complaint and answers on file, having been duly heard and submitted by the parties, full investigation of

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the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the complaint in this proceeding be and the same hereby is dismissed.

Dated at San Francisco, California, this second day of December, 1926.

DECISION No. 17702.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TELEPHONE AND LIGHT COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER ITS FIRST MORTGAGE SIX PER CENT GOLD BONDS MATURING APRIL 1, 1943, TO THE FACE AMOUNT OF ONE HUNDRED NINETY THOUSAND FIVE HUNDRED DOLLARS.

Application No. 13257.

Decided December 3, 1926.

SECURITIES—BONDS—TO ISSUE AND SELL.—Application granted.

C. P. Cutten and *R. W. Duval*, by *R. W. Duval*, for Applicant.

BY THE COMMISSION.

OPINION.

California Telephone and Light Company in this proceeding has applied to the Railroad Commission for permission to issue, sell and deliver $190,500 face amount of its first mortgage 6 per cent gold bonds due April 1, 1943.

The company reports the necessity of issuing the bonds to finance construction expenditures. In a former proceeding, Application No. 11766, filed on October 3, 1925, it reported unreimbursed capital expenditures at August 31, 1925, as shown in Exhibit "C" filed in that proceeding, at $471,617.60. The Commission, by its Decision No. 15545, dated October 21, 1925, authorized the issue of $350,000 of bonds on that account. These bonds, it is now reported, were sold thereafter for $351,785 which, deducted from the $471,617.60 left an unreimbursed balance at August 31, 1925, of $119,832.60. In the present proceeding the company reports construction expenditures from September 1, 1925, to and including August 31, 1926, at $392,859.82, as shown in some detail in Exhibit "C" filed at the hearing held in this matter. Adding the $392,859.82 to the unreimbursed balance of $119,832.60 results in a total of $512,692.42 which is said to represent uncapitalized construction expenditures on August 31, 1925, and against which applicant now asks to issue the $190,500 of bonds.

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In the application now before us permission is requested to use the proceeds from the sale of the bonds to reimburse its treasury, in part, on account of the construction expenditures of $512,692.42. Testimony adduced at the hearing, however, indicates that the greater amount of such expenditures were temporarily financed with moneys advanced by Pacific Gas and Electric Company and that it is the intention of applicant, if this petition is granted, to use the proceeds from the sale of its bonds to pay, in part, such advances. The order herein accordingly will direct the use of the proceeds to pay outstanding indebtedness incurred for construction purposes rather than to reimburse the treasury.

The bonds applicant proposes to issue are part of a total authorized amount of $5,000,000 secured by deed of trust, dated April 1, 1913, to Mercantile Trust Company of San Francisco, trustee. The bonds are dated as of April 1, 1913, bear interest at the rate of 6 per cent per annum, mature April 1, 1943, and are callable at 107.5 per cent of face value plus accrued interest on any interest payment date prior to maturity. According to the application, $1,326,000 of bonds have been issued, of which $226,000 are reported held alive in sinking funds of Pacific Gas and Electric Company, which company owns substantially all of applicant's outstanding stock, $305,000 are held alive in the treasury of Pacific Gas and Electric Company, $737,600 are in the hands of the public and $57,400 have been canceled through sinking fund operations. Applicant reports that it believes it can sell the bonds at not less than the face value thereof and accrued interest.

ORDER.

California Telephone and Light Company, having applied to the Railroad Commission for permission to issue and sell $190,500 of bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purpose specified herein, and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that California Telephone and Light Company be and it hereby is authorized to issue and sell, on or before January 31, 1927, at not less than their face value plus accrued interest, $190,500 of its first mortgage 6 per cent gold bonds due April 1, 1943, and to use the proceeds, other than accrued interest, to pay in part indebtedness incurred in paying for the construction expenditures of $512,692.42 to which reference is made in the foregoing opinion. The accrued interest may be used for general corporate purposes.

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The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $191.

Dated at San Francisco, California, this third day of December, 1926.

DECISION No. 17706.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING SAID COMPANY TO ISSUE AND SELL FIVE THOUSAND SHARES OF ITS FIRST PREFERRED CAPITAL STOCK AT NOT LESS THAN NINETY-FOUR PER CENT OF THE PAR VALUE THEREOF.

Application No. 13307.

Decided December 3, 1926.

SECURITIES—PREFERRED STOCK.—Application granted.

Leo. H. Susman, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding Coast Counties Gas and Electric Company asks the Railroad Commission to make an order authorizing it to issue and sell 5000 shares of its first preferred 6 per cent capital stock, of the aggregate par value of $500,000 at not less than $94 a share. The company further asks permission to use an amount of the proceeds not exceeding 4 per cent of the par value of stock sold to pay selling commissions and to use the remaining proceeds to reimburse its treasury and to finance permanently the cost of expenditures heretofore made for additions and betterments to its electric and gas plants and properties. We believe that the payment of commissions and stock selling expenses should be limited to 3 per cent of the par value of the stock sold.

Applicant has an authorized capital stock of $7,000,000 divided into 70,000 shares of the par value of $100 each, of which 50,000 shares are first preferred stock, 10,000 shares are second preferred stock and 10,000 shares are common stock. The first preferred stock is entitled

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to cumulative dividends at the rate of 6 per cent per annum before any dividends are paid on the second preferred or common stock and is preferred as to assets before the second preferred or common stock. The second preferred stock is entitled to cumulative dividends at the rate of 6 per cent per annum after cumulative dividends on the first preferred stock have been paid and before any dividends are paid on the common stock and is preferred as to assets before the common stock.

As of September 30, 1926, applicant reports outstanding $2,401,400 of first preferred stock, $1,000,000 of second preferred stock and $1,000,000 of common stock. Its assets and liabilities, as of the same date, are reported as follows:

Assets.

Fixed capital		$6,034,175 97
Subscribers to capital stock		50,205 70
Current and accrued assets:		
Cash	$46,084 17	
Special deposits	11,215 26	
Accounts receivable	214,795 25	
Materials and supplies	116,961 01	
Advances to affiliated companies	33,863 13	
Marketable securities	9,022 50	
Miscellaneous	4,435 27	
		436,376 59
Sinking funds		405,425 16
Deferred debits		27,534 97
Reacquired securities		14,656 42
Discount on stock		944,771 08
Total assets		$7,913,145 89

Liabilities.

Capital stock		$4,401,400 00
Funded debt		1,738,000 00
Subscriptions to stock		90,895 00
Current and accrued liabilities:		
Accounts payable	$101,988 66	
Consumers' deposits	13,179 49	
Accruals	94,504 82	
Miscellaneous	20,510 32	
		230,183 29
Deferred credits		23,291 09
Reserves		983,653 68
Corporate surplus unappropriated		445,722 83
Total liabilities		$7,913,145 89

In support of the request to issue additional first preferred stock the company reports that up to September 30, 1926, it had expended $817,747.62 in making additions and betterments to its gas and electric plants and properties which had not been paid or provided through the issue of bonds, stock or other securities. This sum was determined in the following manner:

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Uncapitalized, December 31, 1925, as reported in Application, No. 12534		$962,461 52
Net expenditures for capital purposes, January 1, 1926, to September 30, 1926		536,306 78
Total		$1,498,768 30
Deduct:		
Proceeds from $250,000 of stock authorized by Decision No. 15489	$230,000 00	
Proceeds from $500,000 of stock authorized by Decision No. 16092	461,569 00	
Total	$691,569 00	
Less sales cost	10,548 32	
		681,020 68
Uncapitalized September 30, 1926		$817,747 62

Expenditures made prior to December 31, 1925, have been reported to the Commission in some detail in former proceedings. The expenditures of $536,306.78 made between January 1, 1926, and September 30, 1926, are shown in detail in Exhibit "B" attached to the present application.

At the hearing held in the matter, W. W. Kamm, applicant's secretary, testified that the uncapitalized expenditures of $817,747.62 were financed with surplus earnings and moneys represented by the reserve for depreciation. He further testified that the necessity for making the present petition to issue stock at this time is to meet 1927 construction requirements which are estimated at $598,950. The estimated expenditures according to Exhibit No. 2, which is a copy of the tentative construction budget for 1927, consists of the following:

Electric Department:		
General—new consumers	$215,000 00	
Santa Cruz substation	27,900 00	
Aptos substation	5,700 00	
Hollister substation	12,400 00	
Pacheco substation	11,500 00	
Gilroy substation	32,800 00	
Morgan Hill substation	17,800 00	
Coyote substation	19,800 00	
San Juan substation	4,600 00	
Watsonville-Betabel line	24,000 00	
Warehouses and garages	12,000 00	
Miscellaneous	25,000 00	
Contingencies	40,850 00	
Total electric department		$449,350 00
Gas Department:		
General—new consumers	$50,000 00	
Pittsburg gas works	7,500 00	
Pinole compression station	23,000 00	
Santa Cruz gas works	26,000 00	
Santa Cruz 4-inch line	6,000 00	
Watsonville gas works	2,500 00	
Hollister gas works	3,000 00	
Gilroy gas works	3,000 00	

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Miscellaneous	$15,000 00	
Contingencies	13,600 00	
Total gas department		$149,600 00
Total estimated expenditures		$598,950 00

The order herein will permit the company to use the proceeds to be obtained from the sale of the stock to finance its estimated construction expenditures as well as to reimburse its treasury and finance construction expenditures heretofore made.

ORDER

Coast Counties Gas and Electric Company, having applied to the Railroad Commission for permission to issue stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Coast Counties Gas and Electric Company be and it hereby is authorized to issue and sell, on or before December 31, 1927, 5000 shares of its 6 per cent cumulative first preferred capital stock, of the aggregate par value of $500,000 at not less than $94 a share.

It is hereby further ordered, that Coast Counties Gas and Electric Company be and it hereby is authorized to use not exceeding 3 per cent of the par value of stock sold to pay commissions and expenses incident to the sale of said stock and to use the remaining proceeds, and such portion of the 3 per cent not needed to pay commissions and expenses incident to the sale of the stock in part to reimburse its reserves and treasury and to finance permanently construction expenditures made prior to September 30, 1926, and in part to pay for construction expenditures referred to in this application, to be made subsequent to September 30, 1926, and up to December 31, 1927, provided that only such construction expenditures as are properly chargeable to fixed capital accounts under the uniform system of accounts prescribed by the Commission may be financed through the use of said proceeds.

It is hereby further ordered, that the authority herein granted will become effective upon the date hereof, and, further, that applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as

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required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this third day of December, 1926.

DECISION NO. 17707.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL ONE MILLION DOLLARS PAR VALUE OF SIX PER CENT PREFERRED STOCK AND TWO MILLION FIVE HUNDRED THOUSAND DOLLARS PAR VALUE OF COMMON STOCK.

Application No. 13312.

Decided December 3, 1926.

SECURITIES—STOCK—TO SELL—INSUFFICIENT SHOWING.—Granting permission to applicant to issue $1,000,000 of 7 per cent preferred stock, the Commission denies the application to issue $2,500,000 of common stock at $50 a share as not being warranted by the showing made by the company at the hearing.

Guy C. Earl and *Chaffee E. Hall*, for Applicant.

BY THE COMMISSION.

OPINION.

Great Western Power Company of California has applied to the Railroad Commission for permission to issue and sell to the public 10,000 shares of its 6 per cent preferred stock, of the aggregate par value of $1,000,000, at not less than $93 a share net, and also to issue and sell to Western Power Corporation 25,000 shares of its common capital stock, of the aggregate par value of $2,500,000, at the price of $50 a share net.

Applicant's authorized and outstanding capital stock, as of December 31, 1925, is reported as follows:

Class of Stock	*Authorized*	*Outstanding*
Preferred Series "A" 6 per cent	$15,000,000 00	$915,300 00
Preferred 7 per cent	15,000,000 00	12,111,784 21
Common	30,000,000 00	27,500,000 00
Total	$60,000,000 00	$40,527,084 21

Since December 31, 1925, the company has issued additional preferred stock of both classes, reporting its total outstanding preferred stock, as of September 30, 1926, at $15,129,100, and preferred stock subscriptions at $1,545,500.

In making the present request to issue additional preferred and common stock, the company asks permission to use the proceeds for the purposes specified in Decision No. 16091, dated March 8, 1926, in Application No. 12518.

In that decision the Commission authorized the company to issue and sell $2,000,000 of 6 per cent preferred stock for the purpose of obtain-

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ing funds to reimburse its treasury because of expenditures for capital purposes made prior to January 1, 1926, and to finance in part the cost of additions and betterments and extensions it was estimated would be made during 1926.

In its application the company had reported expenditures theretofore made and estimates of certain work then in progress of $7,990,795.86, estimated expenditures for the year 1926 of $5,022,552.67, and expenditures made in retiring certain bonds of $330,696.75, the three items aggregating $13,344,045.28. From this amount it deducted $6,155,033, representing the proceeds received, or to be received, from the sale of stock theretofore authorized, leaving a balance of $7,189,012.28, against which no securities had been issued. The Commission in passing on the petition, deducted $125,000 on account of expenditures in connection with the application filed by the city and county of San Francisco for an order fixing and determining the just compensation to be paid for its San Francisco properties and the $330,696.75 alleged to have been used to retire bonds. These deductions left a balance of $6,733,315.53, against which the company was authorized to issue its stock. For a description of the various items making up the expenditures and a statement of the method used in arriving at the $6,733,315.53, reference should be made to the former decision, No. 16091. (Vol. 27, Opinions and Orders of the Railroad Commission of California, page 707.)

The decision permitted the issue and sale of the $2,000,000 of stock to provide in part the $6,733,315.53. From records on file with the Commission, under General Order No. 24, it appears that the stock is being sold at 95 per cent of par value. Should the entire amount be disposed of at this price the company will receive in cash the sum of $1,900,000. Deducting this from the $6,733,315.53 leaves a balance of $4,833,315.53 unprovided and on account of which the present application to issue stock is made.

At the hearing held in this matter, J. B. Black, applicant's vice president and general manager, testified that the company had outstanding certain indebtedness in favor of Western Power Corporation amounting to about $2,061,000, and notes in favor of Anglo and London-Paris National Bank in the principal amount of $750,000, and that in his opinion the proceeds to be received from the sale of the stock now requested would be used in part to meet this indebtedness.

In connection with the request to issue and sell the remaining authorized but unissued common stock to Western Power Corporation at 50 per cent of its par value, it appears that all of the now outstanding $27,500,000 of common stock is held by that corporation which thus controls applicant through stock ownership. This stock was issued under authority granted by Decision No. 2985, dated

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December 20, 1915, in Application No. 1999. (Vol. 8, Opinions and Orders of the Railroad Commission of California, pages 752, 777-778.) In that decision the Commission says:

> The Commission desires to be of all possible assistance to Great Western Power Company of California in its financing but at the same time naturally hesitates to give unconditional authority, as long as par value remains on California stock, for the issue of capital stock, unless it is convinced that the capital stock represents value in accordance with the principles heretofore established in this Commission's decisions.
>
> Great Western Power Company of California has expressed a willingness to issue certificates of stock in such form that the Commission's consent to the issue thereof may not be misconstrued. The order herein will accordingly provide that each certificate of the common capital stock issued by Great Western Power Company of California under the order herein or in transfers thereof shall contain, in the body of the certificate, the following language:
>
> "This certificate of stock has been issued pursuant to Decision No. 2985, rendered on December 20, 1915, by the Railroad Commission of the State of California, in Application No. 1999. In said decision the Railroad Commission states that the issue of this stock is authorized only because of the practical necessity of exchanging the same for a like amount of stock of Great Western Power Company, issued before the law of California required the Railroad Commission's consent to the issue of capital stock by public utilities. The Railroad Commission of the State of California in said decision states that it has been unable to ascertain to what extent, if at all, the capital stock of Great Western Power Company, at the time of its issue, represented tangible value."
>
> It should be distinctly understood that the Railroad Commission's action in authorizing the issue of the common capital stock as herein requested, must not be taken as a precedent. Authorization is being made solely because the capital stock of Great Western Power Company was issued prior to the effective date of the Public Utilities Act and is now outstanding, and because applicant herein earnestly insists that the exchange of an equivalent amount of its common capital stock for the stock of Great Western Power Company now held by the New Jersey corporation, is a condition precedent to the success of further satisfactory financing by Great Western Power System.

The only evidence submitted by applicant in support of its request to issue 25,000 shares of common stock at $50 per share is the following: (Transcript, pages 3-4.)

Question (by Chaffee E. Hall, counsel for applicant): With respect to the two and a half million par value of common stock, that is all of the common stock of the company now remaining unissued, is it not?

Answer (by J. B. Black, vice president and general manager): That is correct. Yes.

Question: And the Western Power Corporation has offered to purchase that stock at $50 a share?

Answer: Yes.

Question: If issued, this will be the first common stock that has been sold other than the exchange of the $27,500,000 at the time of the organization of the Great Western Power Company of California, since the Commission has had jurisdiction over the sale of the common stock——

Answer: That is correct.

Question: ——Stocks of utilities.

Answer: This is correct.

Question: And do you believe this proposed price of $50 per share is a fair price?

Answer: I do, yes.

Question: Now, the company is now earning roughly somewhere in the neighborhood of five dollars per share on its common stock.

Answer: Yes, I think it will be a little under that this year, somewhere between $4.50 and $5.00 a share on the present outstanding.

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This is all the evidence that was submitted by applicant to justify the price at which it proposes to sell its stock. True, in response to a question by the presiding examiner, J. B. Black stated that it was difficult to determine the price and that he knew of no justification other than earnings for any one to invest money in common stock.

This Commission has never authorized the issue of stock at a price as low as fifty unless perchance it be the common stock of applicant now outstanding. In the decision authorizing the issue of such stock the Commission stated, however, that its action should not be considered as a precedent, and gave the reason why it authorized the issue of such stock. The frequent appearance of representatives of applicant before the Commission, the fact that Decision No. 2985 from which we have quoted herein, involved the issue of common stock by applicant, warrants us to conclude that they have at least a general familiarity with the policy of the Commission in regard to the price at which it permits utilities to issue stock. Be that as it may, the only evidence submitted by applicant to support its request to issue stock at fifty, is that quoted herein. This we regard as wholly insufficient.

It is not incumbent upon the Commission's representatives to develop an applicant's case. The practice of some applicants to ask their witnesses a few perfunctory leading questions and then dismiss them with the suggestion that if the Commission desires any additional information, let its representatives ask the questions, does not meet with the approval of the Commission. We expect an applicant to make such affirmative showing in support of its requests as will warrant the Commission to make the findings it is expected to make, and not impose on the Commission the duty to make such showing either by cross-examination or direct testimony.

The evidence submitted does not justify this Commission to enter its order authorizing the company to issue 25,000 shares of stock ($2,500,000 par value) at $50 per share.

ORDER.

Great Western Power Company of California, having applied to the Railroad Commission for permission to issue $1,000,000 of 6 per cent preferred and $2,500,000 of common stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that applicant's request to issue $2,500,000 of common stock should be denied without prejudice, and that the money, property or labor to be procured or paid for through the issue and sale of said preferred stock is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not

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in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Great Western Power Company of California be and it hereby is authorized to issue and sell on or before December 31, 1927, $1,000,000 of its 6 per cent cumulative preferred stock at not less than 98 per cent of par value and use of the proceeds an amount equal to not more than 3½ per cent of the par value of the stock sold to pay commissions and expenses incident to the sale of said stock. The remainder of the proceeds, together with such portion of the 3½ per cent not needed for said purposes shall be used by applicant to reimburse its treasury or to pay outstanding indebtedness and finance, in part, the expenditures referred to in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. Only such expenditures as are properly chargeable to fixed capital accounts as defined by the uniform classification of accounts prescribed by the Railroad Commission may be financed with the proceeds obtained from the issue and sale of the stock herein authorized.

2. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted to issue preferred stock will become effective upon the date hereof.

It is hereby further ordered, that this application in so far as it involves the issue of $2,500,000 of common stock be denied without prejudice.

Dated at San Francisco, California, this third day of December, 1926.

DECISION No. 17728.

IN THE MATTER OF THE APPLICATION OF REDONDO HOME TELEPHONE COMPANY FOR AUTHORITY TO INCREASE ITS BONDED INDEBTEDNESS, TO EXECUTE A DEED OF TRUST TO SECURE THE SAME AND TO ISSUE STOCK AND BONDS FOR CASH AND PROPERTY.

Application No. 13183.

Decided December 8, 1926.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 17569, dated November 5, 1926, authorized the Redondo Home Telephone Company to issue

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$200,000 of its first mortgage 6 per cent 20-year bonds subject, among others, to the condition that none of such bonds may be issued until the Commission has authorized applicant to execute a mortgage and/or deed of trust to secure the payment of said bonds. The Commission in its decision suggested certain changes that should be made in the company's proposed mortgage and/or deed of trust filed on October 21, 1926. On November 18th the Commission received revised copies of pages 4, 6, 17, 21, 22, 32, 41, 45, 45-a, 45-b 62, 67 and 72, which copies conform to and incorporate the changes suggested by the Commission in its Decision No. 17569. We have given further consideration to applicant's proposed mortgage and/or deed of trust now on file in this proceeding and find the same to be in satisfactory form; therefore,

It is hereby ordered, that Redondo Home Telephone Company be and it is hereby authorized to execute a mortgage and/or deed of trust substantially in the same form as the mortgage and/or deed of trust now on file in this proceeding, provided that the authority herein granted to execute said mortgage and/or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage and/or deed of trust as to such other legal requirements to which said mortgage and/or deed of trust may be subject.

It is hereby further ordered, that within thirty days after the execution of the mortgage and/or deed of trust herein referred to, Redondo Home Telephone Company shall file with the Commission two certified copies thereof.

Dated at San Francisco, California, this eighth day of December, 1926.

DECISION NO. 17743.

CITY OF OAKLAND, A MUNICIPAL CORPORATION

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1536.

Decided December 11, 1926.

TRANSPORTATION—STREET RAILWAY—LOCAL EXPRESS SERVICE—RATES.—On complaint of the city of Oakland the Commission orders Southern Pacific Company to install a curve track at Seventh and Webster streets in the city of Oakland, connecting the Seventh street local line of that utility with the Eighteenth street line, and to place in operation on or before June 1, 1927, a local express service between stations on those two lines to the vicinity of Nineteenth and

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Webster streets. Request for reduction of rates dismissed, the matter of rates on the entire system now pending before the Commission.

Leon E. Gray, for the City of Oakland.
E. J. Foulds, for Southern Pacific Company.
*J. Allison Brunce*r, for City of San Leandro.
George E. Sheldon, for Uptown Association of Oakland.
T. P. Wittschen and *Ralph Hoyt*, for County of Alameda.
E. W. Hollingsworth and *Bishop and Behler*, for Traffic Bureau of the Oakland Chamber of Commerce.
Charles H. Seccombe, for the East Side Board of Trade.
J. P. Thompson, for the Elmhurst Community Club.
Wilbur Walker, for the Merchants' Exchange of Oakland.
W. J. Locke, for the City of Alameda.
Oliver Kehrlein and *H. C. McPike*, for Webster Street Improvement Association.

DECOTO, *Commissioner*.

OPINION.

In this proceeding, filed as a formal complaint on February 21, 1921, the city of Oakland, complainant, requests an order from this Commission requiring Southern Pacific Company, defendant, to do three things, namely:

(1) Require the construction and installation of a curve connecting the Seventh street line with the Webster street line;

(2) For a reduction of fares charged to the passengers on the Seventh street line to points east of Havenscourt; and

(3) For such other relief as may be meet and proper in the premises.

Public hearings were held in this matter on June 20 and 21 and on July 29, 1921, before former Commissioner Martin. The case was submitted on briefs at the latter hearing. On January 29, 1926, the matter was reopened for further hearing by order of the Commission. Further hearings were held on March 31 and April 1, 1926.

Defendant, Southern Pacific Company, operates, as part of its East Bay Electric Division of Oakland, Alameda and Berkeley Electric lines, an electric railway from Oakland mole via Seventh street, private right of way, Bond street, Beck street, Blanche street and Bancroft avenue to Dutton avenue in San Leandro. The route from Bond street to Bancroft avenue is interspersed with short lengths of private rights of way. Defendant, Southern Pacific Company, also operates, as part of this division of electric lines, a line from Oakland mole to Fourteenth and Franklin streets via Sixteenth street station, Eighteenth street, Twentieth street and Franklin street. Westbound cars or cars operating from Fourteenth street to the Oakland mole operate over Twenty-first street and Jones street instead of over Twentieth street.

At the time this complaint was filed service was also given from Fourteenth and Franklin streets to Alameda pier via Webster street and the Harrison street swing bridge to Alameda pier and thence by boat to San Francisco. At that time local street car service was also in

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effect between Alameda and Sixteenth street station, Oakland, via Webster, Eighteenth and Twentieth streets. The service between Oakland and Alameda via the Harrison street bridge was discontinued on December 27, 1923, under authority granted in Decision No. 12906, dated December 7, 1923 (Case No. 1911). Under Decision No. 14618, dated March 3, 1925 (Case No. 1487), Southern Pacific Company was authorized to dispose of its terminal facilities and land at Fourteenth and Franklin streets and to relocate its service, now on Franklin street extending from Thirteenth and Webster to Twentieth and Franklin, one block easterly to Webster street. Under Decision No. 16083, dated March 8, 1926 (Application No. 12448), permission was granted Southern Pacific Company to discontinue the operation of ten-minute street car service on its so-called Eighteenth street line between Fourteenth and Franklin and Sixteenth street station, provided the company should continue to render local street railroad service along said Eighteenth street line by means of its trains operating from Fourteenth and Franklin streets via Eighteenth street through to Oakland pier, stopping at intervals spaced approximately five to the mile. Under the same decision the Commission granted Southern Pacific Company the right to construct the necessary crossings from Second and Webster streets to Twentieth and Franklin streets to operate its Eighteenth street line in accordance with Ordinance No. 3497 N. S., adopted by the Oakland City Council December 30, 1925. This ordinance is for a double track street railway and runs for eighteen years. At the time the pending proceeding was filed the tracks in Webster street were operated under Ordinance No. 855 (Complainant's Exhibit No. 9) which expires in 1930. On June 29, 1926, the Commission made its Decision No. 17028 (Application No. 12934) permitting joint use of tracks on Webster street from Sixth street to Twentieth street by Key System Transit Company and Southern Pacific Company.

In addition to the above changes in service by Southern Pacific Company since the beginning of this proceeding, certain other service has been added by the Key System Transit Company in the district served by the Seventh street line of Southern Pacific Company. The Sixteenth street car line of the Key System formerly terminated at Fifty-fifth avenue, but now extends to Fleming avenue in Maxwell Park north of Trask street and west of Fifty-fifth avenue. A bus line is also being operated from near Trask and Fifty-fifth streets along Foothill boulevard to Ninety-sixth avenue and thence south to East Fourteenth street. A bus line has also been placed in operation from East Fourteenth street and Seminary avenue to Trevor avenue, thence east on Trevor to Seventy-third avenue and south on Seventy-third avenue to East Fourteenth street.

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On the Seventh street line the Southern Pacific now breaks its trains throughout most of the day at Seminary avenue, a portion of the train continuing on to Dutton avenue. The portion turned back at Seminary avenue picks up westbound car of previous train, thus eliminating lay-over delays. At the time this complaint was filed in 1921, a shuttle service was operated from Havenscourt to Dutton avenue except for certain through trains during peak hours of travel. This shuttle service entailed delays and was considered unsatisfactory by the city.

Complainant, city of Oakland, introduced evidence showing the growth of the territory served by the Seventh street line beyond Fruitvale and Melrose.

At the hearing held on June 20, 1921 (page 279 of transcript), it was testified that only 82 houses were built in Broadmoor subdivision, which lies between East Fourteenth street and Foothill boulevard and Stanley way and Dutton avenue, from about the time it was placed on the market in the year 1907 up to the year 1919, while during each of the years 1919 and 1921 half that number were built and in the year 1920 alone more than that number.

The testimony shows (page 298 of transcript and complainant's Exhibit No. 4) that complainant, in June, 1921, estimated the population of that portion of Oakland northeast of Fourteenth street and east of Fifty-fifth avenue and that portion of San Leandro north of East Fourteenth street and west of Seventh avenue at 10,625, based on registration in 13 precincts. Buildings constructed in this territory from January, 1910, to June, 1921, are shown on complainant's Exhibits Nos. 5 and 6 to number 990.

At the hearing held on March 31, 1926, witnesses for complainant showed that the population of eight precincts east of Seventy-third avenue, north of East Fourteenth, south of Foothill boulevard and west of Stanley avenue, the eastern boundary of the City of Oakland, based on the registration figures of October, 1924, amounted to 9595 persons; and that the number of buildings constructed in those precincts from January, 1921 to April, 1926, consisted of 2808 residences and 2945 other structures, of which 785 were additions or alterations and repairs. The above figures indicate that the population of the district served by the Seventh street line, east of Fifty-fifth avenue, has substantially increased probably to the extent of 40 or 50 per cent in the last five years (or at the rate of 8 or 10 per cent per year).

The testimony shows that the installation of a fast express service could not be undertaken with any degree of success on the East Fourteenth street line of the Key System Transit Company, due to the extensive local street car service on the same tracks. All parties are

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equally in accord on this subject. Fast express service is not rendered and can not be expected from the Key System's existing bus lines, due partially to the inability to gauge connections of busses with connecting street car lines, and partially to the congested street traffic conditions. A fast express service, between the heart of the city of Oakland and the district in East Oakland and San Leandro served by the Seventh street line, is a public convenience and necessity, but it does not appear feasible to try to render such service on heavy traffic streets or with street cars stopping at every block or even at alternate blocks. No other agency but the Southern Pacific Company has the facilities for giving a reasonably fast service with a small number of stops to the mile. Since such a service appears to be a public necessity for this portion of the city of Oakland, it only remains to be shown whether, under the existing franchises, such a service can be required of the Southern Pacific Company by this Commission.

The installation of curves at Seventh and Webster streets, as petitioned for by the city of Oakland, is physically feasible and could be readily accomplished as the Southern Pacific Company owns the property on the corner embraced by the curves.

The Southern Pacific Company introduced testimony showing that approximately 3600 people use the existing local service daily in each direction between Broadway and Dutton avenue. It is reasonable to assume that a more frequent service to the center of the city would increase the patronage.

Southern Pacific Company claims that the prayer of the city of Oakland is a request to compel the Southern Pacific Company to go into a new territory and to build a new track and to undertake a new service and that this Commission lacks jurisdiction in this case. However, from the record in this case, it appears that a service, having the same character, except as to routing, is at present rendered separately on both the Seventh street and the Eighteenth street lines by the Southern Pacific Company. With respect to such service on the Seventh street line, we find in line 8, page 546 of the reporter's transcript in this case, the following quotations from counsel for Southern Pacific Company, and one of its witnesses:

> Mr. Foulds:
> Now, the passengers are carried locally on that train just as if it were a street car to and from the points on that route?
>
> Mr. Veale:
> Passengers are carried locally from Pine street to Dutton avenue locally between any and all stations on the Seventh street line.

With respect to the Eighteenth street line, it is clearly shown, in Commission's Exhibit No. 1-a in this proceeding, which covers the testimony given by Mr. F. L. Burckhalter, first assistant general man-

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ager of the Southern Pacific Company, at public hearing held on February 4, 1926, in Case No. 1487 and Applications Nos. 5026, 12427 and 12448, that such service is now given and will continue to be given on that line.

There is no doubt as to the right of the Southern Pacific Company to operate a local street car service on the so-called Eighteenth street line, on Webster street from Second street to Twentieth, on Twentieth from Webster to Franklin and on the Seventh street line east of Melrose station, in accordance with existing ordinances, and to operate local service, such as is now operated on Seventh street from Pine street as far as Fallon street. If the company so desired, it has undoobtedly a right to operate a street car service along its right of way from Fallon street to Melrose station.

Since the defendant, Southern Pacific Company, has the legal right to render a fast express local service between Dutton avenue and the business district of Oakland, by way of its so-called Seventh street and Webster street lines, as prayed for by the complainant; and since this carrier has, in fact, been rendering a local service on each of these two lines but in an inadequate and unsatisfactory manner as to through routing; and since the evidence in this proceeding clearly shows that public convenience and necessity justify the rendering of such a through local service between Dutton avenue and the uptown business section of Oakland and that facilities are available for such a service, except for the installation of minor track connections at the intersection of Seventh and Webster streets: there appears no alternative but for this Commission to direct the defendant to provide such a track connection forthwith and thereafter render a fast express service between said Dutton avenue and the uptown business section of Oakland by its so-called Seventh and Webster street lines.

The defendant has claimed that it does not have the right, without receiving a new franchise, to construct the connecting spur referred to at Seventh and Webster streets. From an examination of the franchises under which tracks are now constructed in Seventh street and Webster street, respectively, I am not satisfied that this contention is correct, but in the event that some further permission is necessary from the city of Oakland, requesting of any necessary permission from the proper authorities can only be considered as an incidental feature to the constructing of this minor piece of track. Such permission, if necessary, is largely of the same nature as the formal permission that will be necessary under a proper application to this Commission to construct grade crossings over portions of these streets.

Some testimony was also introduced by complainant as to the necessity of establishing a fast express service between the business section

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of Oakland and the loop lines of defendant in the city of Alameda via the Fruitvale avenue drawbridge, in addition to the express service to East Oakland already discussed. However, I am of the opinion that the route via Fruitvale is too long for a satisfactory service. Even with the Webster street drawbridge out of use, sufficient patronage did not develop early last spring to warrant the Southern Pacific Company in keeping its Alameda horseshoe line on a twenty-minute schedule. It would therefore appear that such a service is not now a public convenience and necessity and should not be established.

Since that portion of this complaint relating to rates is also the subject matter of a more comprehensive rate proceeding now pending before this Commission (Application No. 11504), it does not appear necessary or proper at this time to make any finding with respect to that portion of this complaint, and complaint, in so far as it relates to rates, should therefore be dismissed. The following form of order is recommended:

ORDER.

A public hearing having been held on the above entitled proceeding, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that Southern Pacific Company, defendant herein, be and it is hereby directed to place in operation on or before June 1, 1927, a local express service between existing station stops on its Seventh street line east of Webster street and existing station stops on its so-called Eighteenth street line north of Seventh street to the vicinity of Nineteenth street and to construct such track connections between the two said lines at the intersection of Seventh and Webster streets as may be necessary to place such a service in operation.

It is hereby further ordered, that that portion of this proceeding having to do with a request for an adjustment of rates be and the same is hereby dismissed.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eleventh day of December, 1926.

DECISION NO. 17744.

IN THE MATTER OF APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO CLOSE THE AGENCY AT DUTCH FLAT STATION, COUNTY OF PLACER, STATE OF CALIFORNIA, DURING THE PERIOD NOVEMBER FIRST TO APRIL THIRTIETH, INCLUSIVE.

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Application No. 10759.
Decided December 11, 1926.

ABANDONMENT—AGENCY STATION—STEAM RAILROAD.—Application granted.

H. W. Hobbs, for Applicant.
R. W. Clements, for residents of Dutch Flat, Protestants.

BY THE COMMISSION.

OPINION.

Southern Pacific Company, a corporation, has petitioned the Railroad Commission for an order authorizing the closing of its agency station at Dutch Flat in Placer County on applicant's Sacramento Division during the period November 1 to April 30, inclusive, of each year.

A public hearing on this application was conducted by Examiner Handford at Colfax, the matter was duly submitted and is now ready for decision.

An exhibit filed with the application shows the amount and sources of revenue at this station during the year ending November 30, 1924. From this statement the following data appear for the months of November to April, inclusive, being the period in which the discontinuance of an agent is proposed:

Passenger ticket sales		$613 00
Less-than-carload freight		
Forwarded	$86 00	
Received	652 00	
		738 00
Total, ticket sales and less-than-carload freight		$1,351 00

Carload freight—None.
Agency expense—$841.05.
Percentage of revenue required for agency expense, 62.25 per cent.

P. W. Barnard, representing the general manager's office of the applicant company, testified as to the record of business transacted at Dutch Flat station and that 75 per cent of the business was done during the months that the station was to be maintained as an agency.

Abstracts from an exhibit presented by this witness show the following data for the periods mentioned:

	Nov., 1924, to April, 1925, inclusive	*Nov., 1925, to April, 1926, inclusive*
Tickets sold	$678 00	$768 00
Less-than-carload freight	676 00	586 00
Totals	$1,354 00	$1,354 00
Carload freight	------	91 00
Total revenue	$1,354 00	$1,445 00
Station expense	$785 00	$785 00
Percentage of revenue required for station expense	57.98%	54.33%

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W. M. Stillman, assistant superintendent of the Sacramento Division of applicant, testified as to the manner in which service would be rendered to the public during the months in which it was proposed to operate Dutch Flat as a nonagency station.

M. L. Jennings, trainmaster on applicant's Sacramento Division, testified that Dutch Flat received local freight service on Mondays, Wednesdays and Fridays from westbound points, and on Tuesdays, Thursdays and Saturdays from eastern points.

One local passenger train in each direction stops regularly and one in each direction stops on flag.

The granting of the application is protested by residents of the adjacent community who are patrons of the applicant.

Witnesses, protesting the application, testified as to the inconvenience anticipated for passengers and receivers of freight and express during the months in which the discontinuance of the agency was proposed, and particularly as regards the winter season. The community at Dutch Flat is located approximately a mile from the railroad station and in the case of late arrival of trains the absence of shelter was a prospective item of complaint. A protest signed by 93 residents of Dutch Flat and vicinity was received at the hearing.

After full consideration of the evidence in this proceeding, we are of the opinion and hereby find as a fact that the maintenance of an agent at the station of Dutch Flat during the months of November to April, inclusive, of each year is not justified by the revenue received at such station during such period and that authorization should issue for the discontinuance of the agency during such months.

It appears, however, that due to the location of Dutch Flat station as regards the patronage served and as to its location in a mountain territory where heavy snow conditions prevail in the winter months arrangements should be made whereby the station waiting room should be kept open, lighted and heated during the hours between 7 a. m. and 6 p. m. when passenger trains are due to arrive and depart and applicant will be required to furnish such service to the public in lieu of the agency service as heretofore maintained.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised, and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that applicant, Southern Pacific Company, a corporation, be and the same hereby is authorized to discontinue the maintenance of an agent at its station of Dutch Flat on its Sacramento Division in Placer County, during the months November to

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April, inclusive, of each year and during such months to maintain said station as a nonagency station.

It is hereby further ordered, that applicant is hereby required during the months of each year that Dutch Flat station is operated as a nonagency to keep open the waiting room at said station between the hours of 7 a. m. and 6 p. m. when passengers trains are due to arrive and depart and to keep said waiting room lighted and heated during such period.

Dated at San Francisco, California, this eleventh day of December, 1926.

DECISION NO. 17747.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE PURCHASE OF ALL OF THE CAPITAL STOCK OF TURLOCK HOME TELEPHONE AND TELEGRAPH COMPANY AND FOR THE TRANSFER OF THE PROPERTY OF TURLOCK HOME TELEPHONE AND TELEGRAPH COMPANY TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, AND AUTHORIZING THE TURLOCK COMPANY TO RETIRE FROM THE TELEPHONE BUSINESS AND AUTHORIZING THE PACIFIC COMPANY TO ENTER THE TERRITORY INVOLVED AND ASSUME THE OBLIGATIONS OF RENDERING TELEPHONE SERVICE THEREIN.

Application No. 13267.
Decided December 11, 1926.

TRANSFER—TELEPHONE—UTILITY—TO PURCHASE.—Application granted.

J. L. Randolph, for Turlock Home Telephone and Telegraph Company.
J. G. Marshall, for The Pacific Telephone and Telegraph Company.

BY THE COMMISSION.

OPINION.

In the above entitled matter the Railroad Commission is asked to make an order:

1. Authorizing The Pacific Telephone and Telegraph Company, hereinafter sometimes mentioned as Pacific Company, to purchase all of the outstanding capital stock ($30,000 par value) of Turlock Home Telephone and Telegraph Company, hereinafter sometimes mentioned as Turlock Company, for the sum of $100,000;

2. Authorizing Turlock Company to sell and transfer all of its properties, free and clear of all liens and indebtedness, to Pacific Company and to withdraw from the telephone business in the territory in which it now operates; and

3. Authorizing Pacific Company to engage in a telephone and telegraph business in the territory now served by Turlock Company.

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Turlock Company is engaged in a general telephone business in and about the city of Turlock, Stanislaus County. For the last three calendar years it has reported revenues and expenses as follows:

	1923	1924	1925
Telephone operating revenues	$34,519 02	$35,040 28	$37,733 65
Telephone operating expenses	30,710 72	30,030 45	32,904 12
Net operating revenues	$3,808 30	$5,009 83	$4,829 53
Taxes	2,137 94	1,852 78	1,912 88
Operating income	$1,670 36	$3,157 05	$2,916 65
Deductions:			
Interest accrued	$730 90	$1,540 26	$1,155 00
Miscellaneous	621 90	214 25	327 70
Total deductions	$1,352 80	$1,754 51	$1,482 70
Profit for the year	$317 56	$1,402 54	$1,433 95

The operating expenses of the Turlock Company are reported as follows:

	1923	1924	1925
Repairs to wire plant	$1,694 54	$1,781 30	$2,748 28
Repairs to equipment	1,895 85	1,732 49	1,770 72
Station removals and changes	864 45	862 79	908 67
Depreciation	4,471 99	4,674 71	4,820 19
Other maintenance expenses	838 70	1,041 31	1,824 87
Total maintenance expenses	$9,765 53	$10,092 60	$12,072 73
Operators' wages	$7,609 20	$7,707 50	$8,932 60
Other traffic expenses	231 19	212 82	339 69
Total traffic	$7,840 39	$7,920 32	$9,272 29
General office salaries	$10,209 68	$8,535 40	$7,917 60
Other general expenses	2,895 12	3,482 13	3,641 50
Total general expenses	$13,104 80	$12,017 53	$11,559 10
Total operating expenses	$30,710 72	$30,030 45	$32,904 12

From the testimony herein it appears that there are about 1000 stations in service.

A valuation of the physical properties, made by engineers of the purchasing company, was filed in this proceeding as Exhibit No. 2, and shows the estimated reproduction cost, as of September 30, 1926, at $86,926.16, the estimated condition per cent as 86.0 and the "appraised structural value" at $74,750.

The record herein shows that the owners of the outstanding $30,000 of stock of Turlock Company are desirous of retiring from the telephone business and that accordingly they have made arrangements to sell their shares of stock to Pacific Company for the total sum of $100,000 payable in cash. It appears that on August 11, 1926, the holders of the $30,000 of stock granted to Pacific Company an option to purchase such stock wherein it was agreed that the present holders,

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jointly and severally, would pay, satisfy and discharge all debts, liabilities and obligations of Turlock Company and would remove, satisfy and discharge any and all liens or encumbrances existing against any of the properties of Turlock Company, so that when Pacific Company acquires possession of the stock the properties of Turlock Company will be free and clear of all liens, indebtedness and encumbrances.

Upon acquiring the $30,000 of stock Pacific Company plans to cause the properties of Turlock Company to be transferred immediately to it upon the payment of the nominal consideration of one dollar. In explanation of the procedure proposed to be followed it was stated that the original plan of Pacific Company was to buy the stock and to maintain Turlock Company as a separate entity to continue the operation of the properties now owned by it, separately, and that the arrangements to purchase the stock accordingly were made. Later, however, it was decided the system could be operated better by merging the properties with those now owned by Pacific Company which operates generally throughout Stanislaus County. In making this transfer it reports that it does not at this time contemplate any change in the rates, rules and regulations of Turlock Company within that company's service area. In support of the request of Pacific Company to purchase the ownership of the properties for $100,000 Mr. C. E. Fleager, chief engineer of Pacific Company for Northern California and Nevada, testified as follows:

> Well, that is the best price we could get. Mr. Randolph wanted to sell, and it has been a matter that has been under negotiations for a long time; we are not able to get any better price out of him; he thought that was what it was worth, and we looked it over. We are, of course, buying a business along with the physical property. It is in a community that is rich—we thought we could better the service; we are looking forward to better service all the time throughout a large territory, and with the rich country which is around Turlock, we felt we could afford to pay the $100,000 and finally agreed to do so.

In authorizing the transfer of the stock and in effect the properties for the sum of $100,000 we are not to be understood as making a finding of the value of the properties involved for any purpose other than the transfer of said stock and properties.

The Pacific Company, on account of its greater financial resources, will be able to finance very readily the cost of any additions and betterments which may be necessary in the future. We find no good reason why the purchase of the stock and the transfer of the properties upon the terms indicated herein should not be authorized.

The order will be entered accordingly.

ORDER.

Application having been made to the Railroad Commission as set forth in the foregoing opinion, a public hearing having been held

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before Examiner Fankhauser and the Railroad Commission being of the opinion that the granting of the application is in the public interest and that the application should be granted, as herein provided;

It is hereby ordered, as follows:

1. The Pacific Telephone and Telegraph Company may purchase and acquire on or before February 1, 1927, for $100,000 payable in cash, the outstanding $30,000 of common capital stock of Turlock Home Telephone and Telegraph Company, and thereafter hold such stock.

2. Turlock Home Telephone and Telegraph Company may sell and transfer all of its properties to The Pacific Telephone and Telegraph Company upon the terms and conditions indicated in the foregoing opinion, and upon transfer of such properties, may cease furnishing and supplying telephone and telegraph service in the territory in which it now operates.

3. The Pacific Telephone and Telegraph Company may purchase and acquire the properties of Turlock Home Telephone and Telegraph Company and, upon acquiring such properties, shall engage in a telephone and telegraph business in the territory now served by Turlock Home Telephone and Telegraph Company under the rates, rules and regulations heretofore filed by Turlock Home Telephone and Telegraph Company and now on file with the Railroad Commission.

The authority herein granted is subject to the following conditions:

(a) The consideration of $100,000 being paid by The Pacific Telephone and Telegraph Company shall not be urged as a measure of the value of the properties to be acquired from Turlock Home Telephone and Telegraph Company for any purpose other than the transfer herein authorized.

(b) The Commission, in making the order herein, reserves the right to determine, in this or any subsequent proceeding, the amount of the purchase price that may be charged to capital account by The Pacific Telephone and Telegraph Company.

(c) The Pacific Telephone and Telegraph Company within thirty days after the acquisition of the properties of Turlock Home Telephone and Telegraph Company shall file with the Commission a certified copy of the deed or bill of sale or other instrument of conveyance under which it acquires title to said properties.

Dated at San Francisco, California, this eleventh day of December, 1926.

DECISION No. 17748.

IN THE MATTER OF THE APPLICATION OF LAWRENCE WAREHOUSE COMPANY, A CORPORATION, TO ISSUE STOCK.

Application No. 13297.

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Decided December 11, 1926.

SECURITIES—STOCK—TO ISSUE.—Application granted.

Sanborn and Roehl and DeLancey C. Smith, by *H. H. Sanborn*, for Applicant.

BY THE COMMISSION.

OPINION.

Lawrence Warehouse Company, in the above entitled application, has applied to the Railroad Commission for authority to issue and sell $53,380 of its common capital stock for the purpose of providing additional working capital. The company reports that it has made arrangements to sell the stock for cash at par to the holders of common stock now outstanding.

Lawrence Warehouse Company is engaged in San Francisco and Oakland in the business of managing and operating warehouses, for compensation, and in performing services incidental to storing and warehousing merchandise. It reports that it leases and operates the following warehouses:

(1) Standard Warehouses Nos. 1 to 5, on Fifth, Poplar and Kirkham streets, Oakland; floor area 67,500 square feet; Nos. 1 to 4 of brick construction; No. 5 of concrete construction; lease runs to August 31, 1942.

(2) Warehouse No. 11, Fifth and Magnolia streets, Oakland; floor area 4000 square feet; frame building owned by Lawrence Warehouse Company on land held under 99-year lease.

(3) East End Warehouses Nos. 1, 2 and 3; floor area 50,760 square feet; Nos. 1 and 2 galvanized iron buildings; No. 3 concrete buildings, saw tooth roof construction; lease runs to October 1, 1934.

(4) Warehouse located at southeast corner Second and Brannan streets, San Francisco; floor area 104,430 square feet; brick, heavy mill construction, sprinkler system; lease runs to April 1, 1935.

(5) Warehouse at Nos. 37 and 39 Drumm street, San Francisco; floor area 26,000 square feet; brick building, class "C" construction, sprinkler system; lease runs to February 15, 1943.

(6) Warehouse located at northeast corner Second and Brannan streets, San Francisco; floor area 63,770 square feet; reinforced concrete construction; sprinkler system; lease runs to July 31, 1932.

(7) Warehouse known as Gibson Terminal Building, on block bounded by First, Webster, Water and Franklin streets, Oakland; floor area 130,000 square feet; reinforced concrete construction; automatic fire alarm system; lease runs to October 15, 1946.

The company was organized during July, 1913, and has an authorized capital stock of $200,000 consisting of 20,000 shares of the par value of $10 each, divided equally into common and 8 per cent cumu-

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lative preferred stock. As of August 31, 1926, $109,510 of stock was outstanding, consisting of $62,890 of preferred and $46,620 of common. The assets and liabilities as of the same date are reported as follows:

Assets.

Property and equipment		$147,691 97
Leaseholds		152,100 00
Cash		6,733 82
Accounts receivable		132,706 52
Notes receivable		6,846 85
Miscellaneous investments		2,995 00
Stock subscriptions		3,797 50
Prepayments		17,252 70
Printing and supplies		4,972 03
Goodwill		50,000 00
Total assets		$525,096 39

Liabilities.

Capital stock:		
Preferred	$62,890	
Common	46,620	
		$109,510 00
Stock subscriptions—preferred		5,700 00
Notes payable		48,851 00
Due affiliated companies		20,509 45
Purchase contracts		14,729 22
Accounts payable		16,046 88
Accruals		12,418 90
Notes discounted		6,509 06
Deferred revenue		6,333 40
Reserve for outward labor		8,782 99
Reserve for depreciation		51,777 84
Capital surplus		160,460 50
Earned surplus		63,467 15
Total liabilities		$525,096 39

Under authority granted by Decision No. 17108, dated July 13, 1926, and by Decision No. 9129, dated June 21, 1921, as amended, the company is entitled to issue the remaining authorized but unissued preferred stock, amounting to $37,110, on or before December 31, 1926, to provide working capital. In a former proceeding, Application No. 12849, applicant asked permission to issue all the remaining authorized but unissued common stock, amounting to $53,380, to reimburse its treasury and to pay a stock dividend. After hearing and consideration, however, the Commission made its order (Decision No. 17108), permitting the issue of only $45,800 of common stock. The authority to issue such stock has not become effective for the reason that the company has never filed for approval the stipulation referred to in said decision. Applicant now asks permission to issue and sell the total unissued stock of $53,380, and use the proceeds for additional working capital.

In support of these requests, C. Hildreth, applicant's auditor and assistant secretary, testified that the growth of business necessitates

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additional working capital; that the company is compelled to advance sums to pay freight charges and other charges on goods stored; that about $75,000 is usually tied up in accounts receivable; that the average period of collection of the accounts receivable is from seventy to eighty days; and that in his opinion about $75,000 is needed for working capital.

As shown in the foregoing balance sheet, applicant on August 31st had $109,510 of stock outstanding. Records on file in the office of the Commission indicate that of this amount $99,510 was authorized to be issued for the purpose of paying outstanding indebtedness and of providing working capital. Further, under orders of the Commission now in effect, the company is entitled to issue $37,110 more of preferred stock to provide additional working capital. The record in this proceeding shows outstanding notes payable of $48,851, amounts due affiliated companies of $20,509.45, purchase contracts of $14,729.22 and accounts payable and other indebtedness of $34,974.84. In passing on this application to issue additional stock, we believe that all the proceeds received by applicant from the sale of stock, the issue of which is herein authorized, should be applied specifically to the payment of outstanding indebtedness.

An order will be entered accordingly.

ORDER.

Lawrence Warehouse Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the application should be granted as herein provided, and that the money, property or labor to be procured or paid for is reasonably required for the purpose specified herein, and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Lawrence Warehouse Company be and it hereby is authorized to issue and sell, on or before June 30, 1927, for cash, at not less than par, $53,380 of its common capital stock, and to use the proceeds to pay in part the outstanding indebtedness to which reference is made in the foregoing opinion.

It is hereby further ordered, that the authority herein granted will become effective upon the date hereof and further, that applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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Dated at San Francisco, California, this eleventh day of December, 1926.

DECISION NO. 17758.

IN THE MATTER OF THE APPLICATION OF HOWARD JONES, MADGE JONES, GEORGE KERRY AND NETTIE KERRY FOR AN ORDER AUTHORIZING THE SALE BY HOWARD JONES AND MADGE JONES TO GEORGE KERRY AND NETTIE KERRY OF THE WHOLE OF THEIR PROPERTY KNOWN AS "MELROSE BOULEVARD TRACT WATER PLANT," THE SAME BEING PROPERTY NECESSARY OR USEFUL IN THE PERFORMANCE OF THE DUTIES OF THE SAID SELLERS TO THE PUBLIC, AND FOR AN ORDER AUTHORIZING THE EXECUTION BY PURCHASERS OF A SECOND DEED OF TRUST TO SECURE THE PAYMENT OF THE UNPAID BALANCE OF THE PURCHASE PRICE OF SAID PROPERTY.

Application No. 13335.

Decided December 13, 1926.

TRANSFER—WATER UTILITY—TO SELL.—Application granted.

McClymonds and Wells, by *W. S. Wells, Jr.*, for Applicants.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make its order authorizing Howard Jones and Madge Jones, his wife, to sell for $6,500 to George Kerry and Nettie Kerry, his wife, a public utility water plant known as the Melrose Boulevard Tract Water Plant and more particularly described in Exhibit "D" and Exhibit "E" filed in this proceeding.

The properties to be transferred include lots 74 and 75 of the Melrose Boulevard Tract. The water plant consists of two wells; one 190 feet deep and one 250 feet deep located on lot 74 of the Melrose Boulevard Tract. Both of these wells are equipped with automatic pumps and motors. Water is pumped into two tanks; one having a 10,000-gallon capacity, the other a 1000-gallon capacity. It is distributed through approximately 4000 feet of pipe, varying from two to three inches in diameter. The water plant now furnishes water to 97 consumers. In Exhibit "C" applicants report the revenues from the water sales during 1926 at $1,190. The expenses are reported at $620.77.

The record shows that the properties cost Howard Jones and Madge Jones $6,500. They have agreed to sell the plant for the same amount. The purchasers have agreed to pay $2,200 of the purchase price in cash, assume the payment of a $1,500 note secured by a first mortgage and to deliver to the sellers their note for $2,800 payable in monthly installments of $41.25. The payment of $2,800 is to be secured by a deed of trust substantially in the same form as the deed of trust filed in this

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proceeding and marked "Applicant's Exhibit F." We have examined the deed of trust and find same to be in satisfactory form.

The record shows that Howard Jones, who has been actively in charge of the business conducted under the name of Melrose Boulevard Tract Water Plant, is also engaged in other business and is unable to give adequate attention to the management of said business and to the promotion of the same for the benefit of the public service, and that the purchasers, George Kerry and Nettie Kerry, are able to give and will give full and complete attention to said business and to the management and improvement of the properties.

ORDER.

Howard Jones and Madge Jones having applied to the Railroad Commission for permission to sell the public utility water plant referred to in the opinion which precedes this order to George Kerry and Nettie Kerry, and said George Kerry and Nettie Kerry having asked permission to purchase said water plant and to issue in part payment therefor a note in the sum of $2,800, and to execute a deed of trust to secure the payment of said note, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the note herein authorized is reasonably required by George Kerry and Nettie Kerry, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted; therefore,

It is hereby ordered, as follows:

1. Howard Jones and Madge Jones may sell the public utility water plant known as the Melrose Boulevard Tract Water Plant, and more particularly described in Exhibit "D" and Exhibit "E" filed in this proceeding, to George Kerry and Nettie Kerry.

2. George Kerry and Nettie Kerry may purchase the water plant referred to herein and issue in part payment for such plant their note for the sum of $2,800 and execute a deed of trust to secure the payment of said note, which deed of trust shall be in substantially the same form as the deed of trust filed in this proceeding and marked "Exhibit F," provided that the authority herein granted to execute said deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

3. The consideration which George Kerry and nettie Kerry have agreed to pay for said water plant shall not be urged before this Com-

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mission as a measure of the value of said plant for any purpose other than the transfer herein authorized.

4. The authority herein granted to transfer the properties, issue the note and execute the deed of trust will become effective when George Kerry and Nettie Kerry have paid to the Commission the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

5. George Kerry and Nettie Kerry shall advise the Commission of the exact date upon which they acquire possession of the water plant herein referred to and shall file with the Commission within thirty days after acquiring said properties a certified copy of the instrument of conveyance by which they acquire and hold title to said properties.

6. Under the authority herein granted no properties may be transferred after April 1, 1927.

Dated at San Francisco, California, this thirteenth day of December, 1926.

DECISION No. 17759.

IN THE MATTER OF THE APPLICATION OF KEY SYSTEM TRANSIT COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUE AND SALE OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS OF FIRST MORTGAGE SIX PER CENT GOLD BONDS, SERIES "D."

Application No. 13340.

Decided December 13, 1926.

SECURITIES—BONDS—TO ISSUE.—Application granted.

Brobeck, Phleger and Harrison, by *W. I. Brobeck*, for Applicant.

BY THE COMMISSION.

OPINION.

Key System Transit Company asks permission to issue and sell $1,500,000 of its first mortgage 6 per cent gold bonds, series "D," due July 1, 1938, for the purpose of reimbursing its treasury for capital expenditures already made and for capital expenditures proposed to be made from time to time.

The bonds applicant proposes to issue are part of an authorized amount of $10,000,000 of first mortgage bonds due July 1, 1938, of which $5,500,000 have heretofore been issued under authority granted by the Railroad Commission. Of the first mortgage bonds issued it appears that $2,500,000 of series "A" 6 per cent bonds were issued in connection with the refinancing of the properties formerly owned by San Francisco-Oakland Terminal Railways, $500,000 of series "B" 6 per cent bonds were issued to pay or refund divisional bonds amount-

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ing to $465,000 and to finance the cost of extensions, additions and improvements, and $2,500,000 of series "C" 5½ per cent bonds were issued to pay current indebtedness, reimburse the treasury and finance the cost of additions and betterments. Of these bonds, $6,000 of the series "A's" were retired, leaving $5,494,000 now outstanding.

In addition to the first mortgage bonds applicant has outstanding $8,951,000 of general and refunding mortgage bonds due July 1, 1938, consisting of $1,365,800 of 6 per cent bonds and $7,585,200 of 5 per cent bonds, all of which were issued in the refinancing of the properties now operated by applicant.

The total bonded indebtedness is $14,445,000. The company has also guaranteed the payment of $1,700,000 of 5½ per cent equipment trust obligations and had outstanding, as of September 30, 1926, $825,000 of short term 5½ per cent notes and reports $687,517.95 of other current liabilities.

Its total assets and liabilities, as of September 30, 1926, are reported as follows:

Investments: *Assets.*		
Road and equipment	$28,719,306 66	
Sinking funds	7,592 00	
Miscellaneous physical property	1,685,869 49	
Investment in affiliated companies	1,038,746 61	
		$31,451,514 76
Current assets:		
Cash	$135,266 64	
Special deposits	337,009 83	
Loans and notes receivable	201,587 50	
Accounts receivable	103,072 66	
Materials and supplies	659,905 81	
Other receivables	16,486 77	
		1,453,329 21
Unadjusted debits		4,338,564 80
Total assets		$37,243,408 77
Capital stock: *Liabilities.*		
Prior preferred 7% cumulative	$7,537,200 00	
Preferred 7% cumulative	5,360,100 00	
Common	3,512,500 00	
		$16,409,800 00
Premium on capital stock		1,175,836 29
Funded debt (including equipment trust obligations)		16,145,000 00
Current liabilities:		
Loans and notes payable	$825,000 00	
Accounts payable	407,024 46	
Matured interest, etc., payable	48,406 50	
Accruals	232,086 99	
		1,512,517 95
Deferred liabilities		43,103 00

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Unadjusted credits:		
Premium on funded debt	$258,607 36	
Operating reserves (debit balance)	301,508 20	
Reserve for depreciation	1,563,365 95	
Reserve for amortization of franchise	24,097 59	
Other unadjusted credits	82,558 63	
		$1,627,121 33
Corporate surplus		329,970 20
Total liabilities		$37,243,408 77

Applicant has filed a statement showing its income account for the year 1925 and for the twelve-months period ending September 30, 1926, together with a statement of its annual interest requirements on its first mortgage and general and refunding mortgage bonds and equipment trust certificates, as follows:

	1925	12 mos.ending Sept. 30, 1926
Total operating revenue	$7,289,871 48	$7,498,235 26
Operating expenses, excluding depreciation	5,189,352 88	5,145,612 93
Net revenue, railway and ferry operations	$2,100,518 60	$2,352,622 33
Net revenue, auxiliary operations	43,896 19	
Net operating revenue	$2,144,414 79	$2,352,622 33
Less taxes assignable to operations	444,032 83	468,110 48
Total operating income	$1,700,381 96	$1,884,511 85
Non-operating income	167,664 17	173,708 42
Gross income	$1,868,046 13	$2,058,220 27
Deductions from income, exclusive of interest	35,139 19	52,406 28
Net income	$1,832,906 94	$2,005,813 99

Interest on funded debt:	*Principal*	*Amount of Interest*
First mortgage bonds, Series "A"	$2,494,000 00	$149,640 00
First mortgage bonds, Series "B"	500,000 00	30,000 00
First mortgage bonds, Series "C"	2,500,000 00	137,500 00
First mortgage bonds, Series "D," proposed issue	1,500,000 00	90,000 00
General and refunding bonds, 6%	1,355,600 00	81,336 00
General and refunding bonds, 5%	7,585,200 00	379,260 00
Equipment trust certificates	1,700,000 00	93,500 00
		$961,236 00

As indicated in the statement, operating expenses do not include any amounts for depreciation. Further the record shows that applicant's operating expenses during the year ending September 30, 1926, were approximately $245,000 in excess of the amount reported in the income statement. The $245,000 is included in the company's balance sheet under the item of operating reserve and according to the testi-

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mony will be transferred to operating expenses during October, November and December of this year. The operating reserve also includes moneys paid or to be paid on account of injuries and damages in the amount of about $56,000. Moreover, it appears that applicant has included in its nonoperating income during the twelve months ending September 30th, the sum of $24,867.99 on account of amortization of premium on funded debt. This amount obviously does not represent any cash realized by the company. Without the above explanatory remarks we feel that the company's financial statements are misleading.

In making the present request to issue additional first mortgage bonds the company asks permission to sell them at not less than 96 per cent of face value plus accrued interest, which seems to be the best price it has been able to obtain for them. A contract has been made, with Bond & Goodwin and Tucker, Inc., for the sale of the bonds at that price with the additional agreement that in the event the price at which the bonds are offered to the public is above 99½, the Key System Transit Company will receive the difference between the offering price and 99½.

The company seeks authority to use $770,161.77 of bond proceeds to reimburse its treasury on account of expenditures for additions, betterments and improvements made up to October 31, 1926, as shown in some detail in exhibits "3" and "4" filed in this proceeding. The testimony submitted does not warrant the Commission to authorize applicant to use $770,161.77 to reimburse its treasury. No conclusive testimony was submitted to show the amount of income, as that term is defined in section 52 of the Public Utilities Act, the company expended for additions and betterments. It does not follow that the company is, because it has expended moneys for additions and betterments, entitled to reimburse its treasury. The moneys so expended may represent loans of one kind or another. Applicant's financial statement shows that it had on September 30th, $825,000 of notes and $455,430.96 of accounts payable. Upon inquiry as to how the $770,161.77 would be used by the company, the Commission was advised that $650,000 would be applied to the payment of notes. We believe that all of the $770,161.77 should be used to pay indebtedness.

The remaining proceeds, which will amount to approximately $662,838.23, applicant proposes to use to finance capital expenditures to be made. Its Exhibit "5" shows estimated expenditures for work in progress since October 31st to be completed on or before April 30, 1927, of $724,200, consisting of the following:

Purchase of 14 28-passenger busses	$136,500 00
Reconstruct track on Hopkins street—Champion to Peralta	17,300 00
Reconstruct track on Hopkins street—14th avenue to Excelsior	45,000 00

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Reconstruct track on East 18th street, 4th to 14th avenue	$79,000 00
Construct additional train shed—Pier terminal	20,600 00
Reconstruct track on Foothill boulevard—Fruitvale avenue to 35th avenue	25,800 00
Reconstruct track on San Pablo avenue through Emeryville	54,000 00
Grand avenue—Embarcadero to Cottage—reconstruck track	32,000 00
Sacramento street—Rose street to South Berkeley city line—install curbs, etc.	14,000 00
Key Division cars—automatic couplers	35,000 00
Key Division—additional automatic flagmen and crossing protection	43,000 00
Other miscellaneous jobs of plant additions and betterments under $10,000 each	222,000 00
Total	$724,200 00

Applicant reports, however, that some of these expenditures are of a tentative nature and it may be that later it will find it expedient to substitute other expenditures for some of those listed in the exhibit. It therefore asks the Commission not to authorize the use of the proceeds from the sale of the bonds to finance the specific expenditures outlined in Exhibit "5," it being its intention to withdraw the proceeds over and above the $770,161.77, from time to time as it proceeds with its construction work upon receiving supplemental orders in this proceeding. This procedure is satisfactory to us. We will at this time not approve any of the expenditures reported in Exhibit "5."

ORDER.

Key System Transit Company having applied to the Railroad Commission for permission to issue $1,500,000 of bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the application should be granted as herein provided and that the money, property or labor to be procured or paid for through such issue is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Key System Transit Company be and it hereby is authorized to issue and sell for cash on or before April 30, 1927, at not less than 96 per cent of face value plus accrued interest, $1,500,000 of its series "D," first mortgage 6 per cent bonds, due July 1, 1938, and use $770,161.77 of the proceeds to pay indebtedness referred to in applicant's balance sheet on file in this proceeding and in the testimony herein. The remainder of the proceeds may be expended only for such purposes as the Commission will authorize in a supplemental order or orders in this proceeding.

It is hereby further ordered, that the authority herein granted shall become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $1,250, and further, that

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applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this thirteenth day of December, 1926.

DECISION NO. 17762.

IN THE MATTER OF THE APPLICATION OF ROGERS AND SONS FOR PERMISSION TO INCREASE RATES.

Application No. 12963.

Decided December 14, 1926.

TRANSFER—WATER UTILITY—TO SELL—RATES ADJUSTED.—Rogers and Sons authorized to transfer water system to Nelson M. Van Fleet, and the latter authorized to merge same with his present system in the vicinity of West Cucamonga, and to place in effect on the acquired system his existing rates, rules and regulations.

J. Ralph Shoemaker, for Applicants.

BY THE COMMISSION.

OPINION.

Rogers and Sons, applicants in the above entitled proceeding, own and operate a small public utility serving water for domestic purposes in West Cucamonga, in San Bernardino County. The original petition filed in this matter requested the Commission to authorize a schedule of increased rates to be charged for water service.

A public hearing in this matter was held at Ontario before Examiner Williams after all interested parties had been duly notified and given an opportunity to appear and be heard.

The first hearing in this proceeding was adjourned pending negotiations for the transfer of applicants' water system. Subsequently an amended application was filed in which the Commission was asked to modify the original petition and authorize the transfer of the utility properties to one Nelson M. Van Fleet, who joined in the application, whereupon further hearing was held for the consideration of the proposed transfer.

The system owned and operated by Rogers and Sons was formerly owned by the Ontario Investment Company and was acquired by authority granted by this Commission in its Decision No. 14734, dated April 4, 1925. The plant consists of a distribution system of 2660 feet of 4-inch riveted steel pipe installed prior to 1915, and about 440 feet of 2-inch black standard screw pipe installed at a later date. According to the evidence presented by M. I. Reed, one of the Commission's

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hydraulic engineers, the estimated original cost of this system as of June 30, 1926, amounted to $2,490. The water supply is obtained through ownership by Rogers and Sons of 21.4 shares of stock in the Cucamonga Water Company, a water system which claims to be operating upon the mutual basis. At the time of this hearing applicants were serving approximately 40 consumers.

The rates now charged on this system were fixed by this Commission in its Decision No. 10001, dated January 20, 1922, and are as follows:

Until meters are installed, a flat rate of one dollar ($1.00) a month for both domestic and industrial service.

As meters are installed, the following meter rate schedule shall be collected:

From 0 to 500 cubic feet, per 100 cubic feet	$0 20
From 500 to 1500 cubic feet, per 100 cubic feet	16
Over 1500 cubic feet, per 100 cubic feet	12
Minimum monthly payments	1 00

Nelson M. Van Fleet, who desires to acquire this water plant, owns and operates a public utility water system known as the California Vineyard and Improvement Company, which serves water under similar conditions in adjoining territory. The two water systems may readily be connected and their operations combined. The rates charged on this system were fixed by the Commission in its Decision No. 15306, dated August 18, 1925, and are as follows:

Monthly Meter Rates.

From 0 to 1000 cubic feet, per 100 cubic feet	$0 25
From 1000 to 2000 cubic feet, per 100 cubic feet	20
Over 2000 cubic feet, per 100 cubic feet	15

Minimum Monthly Charge.

¾-inch meter	$1 50
1-inch meter	2 00
1½-inch meter	3 00
2-inch meter	5 00
	7 00

Each of the foregoing minimum monthly charges will entitle the consumer to the quantity of water which that minimum monthly charge will purchase at the "monthly meter rates."

The Van Fleet system obtains its water supply also through ownership of stock in the Cucamonga Water Company. From the evidence it appears that the 21.4 shares of stock owned by Rogers and Sons are more than required for the use of the territory served. The applicants have agreed that Rogers and Sons may retain 10 shares of their water stock and transfer to Van Fleet the remaining 11.4 shares, which in addition to supplying adequately the consumers of the Rogers system will also provide some additional water for the Van Fleet system. It therefore appears that this arrangement is satisfactory.

Applicant Van Fleet has requested that the rates now charged on his system be made effective throughout the combined service areas.

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This will amount to an increase in the rates now charged on the Rogers system. However, in view of the fact that the service conditions and operating methods existing on the Van Fleet system are better and more efficient, the consumers stated that they were willing to pay the increased charges and had no objections to the proposed transfer.

In view of the above facts and the additional fact that Rogers and Sons have agreed to turn over their entire water system, including pipe lines, meters and services, and in addition thereto 11.4 shares of water stock to said Van Fleet absolutely free of charge, and it appearing that it is to the public interest that this system be operated by said Nelson M. Van Fleet, the Commission is of the opinion that the transfer should be approved and authority granted to place in effect upon this system to be transferred, the rates now charged by said Van Fleet on the system now operated by him in adjoining territory.

ORDER.

Rogers and Sons having made application to this Commission for authority to transfer a public utility water system to Nelson M. Van Fleet, who joins in the application, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed thereon;

It is hereby ordered, that Rogers and Sons be and they are hereby authorized to transfer to Nelson M. Van Fleet that certain public utility water system owned by said Rogers and Sons, supplying water to consumers in the townsite of West Cucamonga, in San Bernardino County, in accordance with the terms and conditions of that certain agreement entered into by and between said parties and attached to and made a part of the amended application herein and marked "Exhibit A," subject to the following further terms and conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before March 1, 1927, and a certified copy of the instrument of conveyance shall be filed with this Commission by said Rogers and Sons within thirty days from the date on which it is executed.

2. Within ten days from the date on which Rogers and Sons actually relinquish control and possession of the property herein authorized to be sold, they shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

3. The consideration for the transfer of this water system shall not be urged before this Commission or any other public body as a finding of value of the property for rate fixing or for any purpose other than the transfer herein authorized.

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It is hereby further ordered, that Rogers and Sons be and they are hereby relieved of all public utility liabilities and obligations as to all water stock of the Cucamonga Water Company now retained by them and heretofore used in whole or in part in the service of water to the public.

It is hereby further ordered, that the rates of the California Vineyard and Improvement Company, Nelson M. Van Fleet, sole owner, as established by this Commission in its Decision No. 15306, rendered August 18, 1925, and the rules and regulations of said company shall become effective upon the system authorized to be transferred herein on and after the thirty-first day of December, 1926.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this fourteenth day of December, 1926.

Decision No. 17763.

IN THE MATTER OF THE APPLICATION OF YOSEMITE PARK AND CURRY CO., A CORPORATION, OPERATING THE YOSEMITE TRANSIT SYSTEM, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR STAGE PASSENGER, BAGGAGE AND EXPRESS SERVICE BETWEEN MERCED, MERCED COUNTY, CALIFORNIA, AND EL PORTAL, MARIPOSA COUNTY, CALIFORNIA, AND INTERMEDIATE POINTS, AS AN EXTENSION OF ITS EXISTING MOTOR STAGE SERVICE BETWEEN MARIPOSA, MARIPOSA COUNTY, AND BRICEBURG, MARIPOSA COUNTY, AND BETWEEN EL PORTAL, MARIPOSA COUNTY, AND THE BOUNDARY OF YOSEMITE NATIONAL PARK.

Application No. 12800.

IN THE MATTER OF THE APPLICATION OF YOSEMITE VALLEY RAILROAD COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR STAGE PASSENGER AND BAGGAGE SERVICE BETWEEN MERCED, MERCED COUNTY, CALIFORNIA, AND EL PORTAL, MARIPOSA COUNTY, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 13039.

Decided December 14, 1926.

CERTIFICATE—AUTO STAGES—TO OPERATE.—After rehearing the Commission (Commissioner Decoto dissenting), reaffirms its previous decision granting certificates to both applicants.

Brobeck, Phleger and Harrison, by *Herman Phleger*, for Yosemite Park and Curry Co., Applicant in Application No. 12800, and Protestant in Application No. 13039.

McCutchcon, Olney, Mannon and Greene, by *Allen P. Matthew* and *John O. Moran*, for Yosemite Valley Railroad Company, Applicant in Application No. 13039, and Protestant in Application No. 12800.

Earl A. Bagby, for California Transit Company, in favor of Application No. 12800, and Protestant in Application No. 13039.

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Edward Stern and *J. W. Rogers*, for American Railway Express Company.
Clarence M. Oddie, for American Short Line Railroad Association.

BY THE COMMISSION.

OPINION AND ORDER ON REHEARING.

On November 9, 1926, the Commission by its Decision No. 17584 made its order granting certificates of public convenience and necessity to applicants Yosemite Park and Curry Co., and Yosemite Valley Railroad Company for the operation of automobile stage lines as common carriers of passengers and baggage between Merced and El Portal, via Mariposa and Briceburg.

On November 13, 1926, applicant Yosemite Valley Railroad Company filed herein its petition for rehearing and reargument, and the Commission on November 16, 1926, made its order granting rehearing.

The rehearing on these proceedings was held before the Commission *en banc* on November 24, 1926, at which time the matter was fully presented by argument of counsel, the matter was duly submitted and is now ready for decision.

We have carefully reviewed the record in this proceeding and have considered the arguments presented at the rehearing. We are of the opinion and hereby conclude that the opinion and order heretofore made in this proceeding gave full consideration to all matters to which the attention of the Commission has been directed upon rehearing and that the order heretofore made should be affirmed.

Now, therefore, good cause appearing and the Commission being fully advised;

It is hereby ordered, that the order heretofore granted by the Railroad Commission in its Decision No. 17584 on Applications Nos. 12800 and 13039, as decided November 9, 1926, be and the same hereby is affirmed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of December, 1926.

H. W. BRUNDIGE,
C. L. SEAVEY,
LEON O. WHITSELL,
THOS. S. LOUTTIT,
Commissioners.

DISSENTING OPINION.

I can not concur in the majority opinion of the Commission, which denies to the Yosemite Valley Railroad a rehearing in this matter.

The Yosemite Valley Railroad Company operates one of the "short line" railroads in California. The history of the short line railroads

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in California, over the past fifteen years, has shown conclusively that they are unable to compete with automobile and truck transportation, most of them having had extreme difficulty in maintaining any service upon their lines. The plight of the short line railroad became such that the people of this state adopted a measure designed to lessen their taxation so as to enable them to survive, if possible, the auto and truck competition.

Here we have the example of a short line railroad that has been enabled to weather the storm on account of the fact that there was no road over which the automobile and truck could compete with it. That situation has been changed and there now has been constructed a highway practically paralleling its line, which opens it up to the same competition that has, in the past, all but ruined most short line railroads. A stage company now seeks to enter the field, which was formerly exclusively served by the railroad company. This short line railroad profiting by the disastrous failure of the other short line roads to install and operate stages has applied to this Commission for a certificate to operate a stage line over the new highway. Under the decision as written permission has been granted to the Yosemite Park and Curry Company to operate stages over the new highway as well as to the short line railroad.

If the converse of this situation were present and a highway had been built with a very slight grade, paralleling either the Wawona Road or the Big Oak Flat Road of the Yosemite Park and Curry Company and the Yosemite Valley Railroad Company had made application to operate a stage line over this hypothetical route, there is no question that under the previous decisions of the Commission that permission would be denied them and the certificate for operation over this hypothetical new route would be granted to the Yosemite Park and Curry Company.

The Yosemite Park and Curry Company operates the scenic routes by way of Wawona, Big Oak Flat and Tioga. The people, who travel by stage over these routes, do so because these are the scenic routes and the trip rightly appeals to the individual as one of beauty. On account of the unusual beauty of these routes, the Yosemite Park and Curry Company will not lose passengers from these old established routes of travel by reason of the opening of the new road.

The sole company to lose traffic to the new automobile route, if established, will be the railroad company and they should be given every opportunity by this Commission to retain the business that they now have. This Commission should not depart from its well established practice of permitting those, who have dedicated their property to certain territory to serve that territory fully.

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The effect of the order of the Commission, as it now stands, will be to handicap the railroad in its operation of stages. Under the present order of this Commission, the Yosemite Park and Curry Company can now operate *through* stages from Merced into the heart of Yosemite Valley, while the railroad will be able only to operate stages from Merced to El Portal. Passengers over the railroad stage line must then await whatever service the Yosemite Park and Curry Company chooses to give from El Portal into the valley. Over this service this Commission has no jurisdiction.

The practical effect of these two methods of operation will be, that once the traveling public becomes acquainted with the fact that it can go from Merced into the heart of the Valley without change, it will patronzie the stages of the Yosemite Park and Curry Company almost exclusively. The final result of this operation will be that this Commission will have admitted into the exclusive territory now served by the railroad company a stage line, which will ultimately drive the railroad out of the stage business and take from it a very large portion of its passenger traffic. This will seriously decrease the passenger revenue of the railroad.

It is not difficult to foresee the next step, which also will cut into the earnings of this short line railroad company. That step will be the filing of an application by some trucking company, probably the Yosemite Park and Curry Company, to carry freight into the valley over this new highway by truck and if the Commission follows, in that application, the line of reasoning that it has followed in the present application, it will grant the application and there will soon be a line of trucks paralleling the short line railroad and competing for its freight traffic. These trucks will also have the same advantage that the Park Company stages will have in transporting freight into the heart of the valley without change.

The railroad will suffer an added loss of passengers through the increase in the number of people who will abandon the trip by rail to drive into the valley in their own automobiles. The automobile routes open to the public by way of Wawona, Big Oak Flat and Tioga have not been such as would appeal to any other than the experienced driver. The new route being practically without grade can be driven easily by any one. This condition will cause many who in the past have used the railroad to cease to travel by rail and to make the trip in their own automobiles.

It does not take very great discernment to look a few years into the future and see the Yosemite Valley Railroad Company in the same situation in which we now find most all the California short line railroads. I can see no wisdom in permitting the Yosemite Park and

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Curry Company seriously to impair the value of the railroad property and its power to return a proper earning to its stockholders. These stockholders have certain rights, which should not be lightly sacrificed by the Commission.

I believe that there are three solutions to this matter:

1. That no certificate for either stage lines or truck lines be granted over the new road into the Yosemite Valley and that it be kept exclusively for the use of those who drive their own machines.

2. That the certificate be granted to the short line railroad alone and that it be compelled to give adequate service into the valley with interchange of traffic with the San Joaquin Valley stage companies.

3. That the applications of both the Yosemite Park and Curry Company and the Yosemite Valley Railroad Company be dismissed with instructions to the Yosemite Park and Curry Company and to the Yosemite Valley Railroad Company to form a new company, in which each will have a half interest and that the new company make application for this certificate to the Commission. That in the new application, the stages be operated from Merced into the heart of the Yosemite Valley and not to El Portal only. That the application should also set forth the fact that traffic would be interchanged with the existing stage companies operating north and south in the San Joaquin Valley.

EZRA W. DECOTO,
Commissioner.

DECISION No. 17764.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO CLOSE THE AGENCY AT SOMIS STATION, COUNTY OF VENTURA, STATE OF CALIFORNIA, DURING THE PERIODS MAY FIRST TO SEPTEMBER THIRTIETH AND NOVEMBER FIRST TO MARCH THIRTY-FIRST, INCLUSIVE, OF EACH YEAR.

Application No. 13054.

Decided December 14, 1926.

ABANDONMENT—AGENCY STATION—STEAM RAILROAD.—Application denied. Carrier ordered to keep accurate check of business done at agency at Somis, Ventura County, with the view to renewing application after June 30, 1927.

H. W. Hobbs and *V. S. Andrus*, for Applicant.
J. J. Deuel, for Ventura County Farm Bureau, Protestant.
Richard Bard, for interested residents of Somis, Protestants.
R. L. Churchill, for California Lima Bean Growers' Association, Protestant.

BY THE COMMISSION.

OPINION.

Southern Pacific Company, a corporation, has petitioned the Railroad Commission for an order authorizing the closing of its agency

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station at Somis on its Los Angeles Division in Ventura County during the periods May 1st to September 30th, and November 1st to March 31st, both inclusive, of each year.

A public hearing on this application was conducted by Examiner Handford at Oxnard, at which time evidence was received, the matter was duly submitted, and is now ready for decision.

Applicant relies as justification for the granting of the application, on the following alleged facts:

That the operation of Somis station as an agency is not justified except during the periods April 1st to April 30th, and October 1st to October 31st, both inclusive, of each year; and that the maintenance of an agent during such above mentioned periods and of a nonagency station during the balance of each year will provide adequate service for the public under present conditions.

The following data has been abstracted from an exhibit filed by applicant as a portion of the application herein:

Year Ending April 30, 1926.

Period: May 1st to September 30th, and November 1st to March 31st, both inclusive.

Revenue.		
Passenger tickets sold—		
(Ten months on an average monthly revenue of $62.00)		$620 00
Less than carload freight—		
Received	$638 00	
Forwarded	89 00	
		727 00
Total passenger tickets sold and less-than-carload freight		$1,347 00
Carload freight—		
Received	$8,094 00	
Forwarded	13,717 00	
		21,811 00
		$23,158 00
Agency Expense.		
Salary		$1,440 00
Expense		72 00
		$1,512 00

Percentage of less-than-carload freight revenue and passenger tickets sold required to care for agency expense, 112.24 per cent.

Percentage of total revenue required to care for agency expense, 6.09 per cent.

If the entire calendar year ending April 30, 1926, be considered, the following percentages are shown:

Percentage of less-than-carload freight revenue and passenger tickets sold required to care for agency expense, 108.97 per cent.

Percentage of total revenue required to care for agency expense, 5.72 per cent.

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The carload business transacted at this station during the year ending April 30, 1926, was as follows:

Forwarded.	*Received.*
72 cars beans	50 cars cement
9 cars lettuce	15 cars rock
4 cars cabbage	11 cars sand
11 cars miscellaneous	12 cars hay
	17 cars miscellaneous
96 cars	105 cars

V. S. Andrus, assistant to general manager of applicant, testified as to his study of the revenue received at Somis station for the years ending December 31, 1925, and August 31, 1926. This study, as reflected by an exhibit filed at the hearing, shows the following percentage increases or decreases in revenue received during the respective periods:

	Increase per cent	*Decrease per cent*
Less-than-carload freight	--	8
Carload freight	--	40
Passenger	--	16

The express revenue, on all shipments forwarded and received, during the year ending September 30, 1926, amounted to $675.35, or a monthly average of $56.28.

E. J. Kellam, trainmaster on applicant's Los Angeles Division, described the service rendered to the public at agency and nonagency stations. Somis is served by one local freight in each direction, daily except Sunday, operating eastbound between 4 and 7 a. m., and westbound between 10 and 11 p. m. Two passenger trains westbound, and one eastbound, serve Somis as a flag stop. The nearest agency stations are Moorpark, 7.3 miles easterly, and Camarillo, 3.2 miles westerly.

The granting of the application is protested by the Ventura County Farm Bureau, the California Lima Bean Growers' Association, and by interested residents of Somis.

R. L. Churchill, manager of the California Lima Bean Growers' Association, testified that his association had delivered to the Somis warehouse 106,000 bags of beans during the present season, which he estimated to equal 326 carloads of 30 tons each, all of which would move from Somis over applicant's railroad. The estimate of witness as to the number of carloads appears in error, beans weighing approximately 100 pounds per sack, and the 106,000 sacks weighing 5300 tons which is equivalent to approximately 176 carloads of 30 tons each. While this estimate exceeds by more than 100 carloads the shipments of beans during the year ending April 30, 1926, witness states that the past year was one more nearly normal as to the bean crop, previous years having been below the average due to a deficient rainfall.

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W. E. Basham, in charge of the Southern Pacific Milling Company's warehouse at Somis, testified that there were now 160,000 bags of beans in storage at his warehouse, beans being stored for independent producers as well as for the Bean Association; that conditions as existing during the current year have resulted in a normal crop; and that the retention of an agent is desirable for the prompt placing of car orders and the receipting for outgoing shipments.

W. E. Goodyear, a farmer, and president of an irrigation company, testified as to the results obtained by bean raising on irrigated land. It appears that the yield approximates 25 sacks per acre when irrigated against a yield of six sacks per acre on the same land when not irrigated and if the natural rainfall was depended upon. The witness anticipates a material increase in bean tonnage as the irrigation systems in the vicinity of Somis are further developed.

H. Fowler, engaged at Somis in the manufacture of concrete irrigating pipe and the installation of irrigating systems, testified as to the volume of his shipments and the inconvenience anticipated if the service of an agent were to be discontinued.

Richard Bard, a property owner in the section tributary to Somis station, testified as to the development of the adjacent territory and as to the planting of walnut groves and citrus orchards which will be on a shipping basis in about two years; as to the subdivision of large tracts into smaller holdings and the resultant intensive cultivation of the smaller areas; and that, in his opinion, the development of the area tributary to Somis station will be retarded if the agency should be closed by reason of the inconvenience to the patrons of applicant in the transaction of their business with the railroad.

Mrs. D. J. Babtiste, president of the Somis Thursday Club, and representing 67 families, testified that inconvenience would result to passengers if the agency station were to be closed.

We have given careful consideration to the record in this proceeding and we conclude therefrom that the territory tributary to Somis is in a state of development, due to breaking up of large land holdings, irrigation and planting of citrus orchards and walnut groves, which will materially increase the volume of freight tonnage within the succeeding two or three years.

In view of the development now in progress in the territory tributary to Somis, we are of the opinion that the station should not be closed during the months as herein applied for and that the application should be denied without prejudice. Applicant will be required to furnish the Commission with a statement of revenue and expenses for the yearly period ending June 30, 1927, at which time if applicant so desires, the matter will be reopened for further consideration.

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ORDER.

A public hearing having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusions and findings of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that this application be and the same is denied without prejudice.

Applicant is hereby required to keep an accurate account of the revenues and expenses resulting from the maintenance of the agency station at Somis for the yearly period ending June 30, 1927, and to submit such account to this Commission.

The Commission reserves the right to make such further order or orders in this proceeding as to it shall appear just and proper or as, in its opinion, the public convenience and necessity may require.

Dated at San Francisco, California, this fourteenth day of December, 1926.

DECISION No. 17765.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO ISSUE AND PLEDGE ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS TO THE PAR VALUE OF ONE MILLION DOLLARS.

Application No. 1280.

Decided December 14, 1926.

BY THE COMMISSION.

FIRST SUPPLEMENTAL OPINION AND ORDER.

In a supplemental petition filed in the above entitled matter on November 10, 1926, Pacific Gas and Electric Company asks the Railroad Commission to make an order authorizing it to sell, at not less than 99 per cent of face value plus accrued interest $25,000 of its general and refunding mortgage bonds heretofore issued under authority granted by Decision No. 1756, dated August 27, 1914, and now held in its treasury, and to use the proceeds for general corporate purposes.

In the original application in this proceeding, filed August 14, 1914, Pacific Gas and Electric Company asked permission to issue $1,000,000 of its general and refunding mortgage bonds and to pledge them to secure either corporate or individual sureties on two bonds which it desired to file in two suits pending in the District Court of the United States for the Northern District of California, one of the suits, *Pacific*

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Gas and Electric Company vs. *City and County of San Francisco*, Equity No. 27, having been brought to enjoin the enforcement of Ordinance No. 2348 of the board of supervisors of the city and county of San Francisco establishing gas rates for the year ending June 30, 1914, and the other, bearing the same title, but numbered Equity No. 32, having been brought to enjoin the enforcement of Ordinance No. 2349 of the board of supervisors of the city and county of San Francisco establishing electric rates for the same period.

In making this request the company reported that it was entitled to issue the $1,000,000 of bonds under the terms of the trust indenture securing the payment of the general and refunding mortgage bonds and it agreed that during the time the $1,000,000 of bonds were outstanding it would not reimburse its treasury with proceeds from the sale of bonds and stock in an amount equal to the $1,000,000. The request to issue the bonds thus was predicated on capital expenditures made up to that time and not reimbursed through the issue of securities.

By Decision No. 1756, dated August 27, 1914, the Commission authorized applicant to issue the $1,000,000 of bonds. It appears that such bonds actually were issued but that only $875,000 were pledged for the purposes indicated herein and that $125,000 have since been held in the company's treasury and have not been, nor will be, used for the purpose specified in the decision. The company now asks that it be allowed to sell $25,000 of these bonds at 99 per cent of face value plus accrued interest.

We have given consideration to applicant's request and believe it should be granted as herein provided; therefore,

It is hereby ordered, that the order in Decision No. 1756, dated August 27, 1914, be and it hereby is modified so as to permit Pacific Gas and Electric Company to sell, on or before January 31, 1927, at not less than 99 per cent of face value plus accrued interest, $25,000 of the general and refunding mortgage 5 per cent bonds authorized to be issued by said decision, and to use the proceeds for general corporate purposes.

It is hereby further ordered, that the order in Decision No. 1756, dated August 27, 1914, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this fourteenth day of December, 1926.

DECISION No. 17766.

IN THE MATTER OF THE INVESTIGATION, UPON THE COMMISSION'S OWN MOTION, INTO THE CONSTRUCTION OF FACILITIES AND THE RENDERING OF A VEHICULAR FERRY SERVICE BY THE

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SOUTHERN PACIFIC COMPANY, A PUBLIC UTILITY, BETWEEN SAN FRANCISCO AND ALAMEDA, IN THIS STATE, WITHOUT FIRST HAVING OBTAINED FROM THIS COMMISSION A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE OR WILL REQUIRE SUCH CONSTRUCTION OR OPERATION, OR BOTH.

Case No. 2275.

Decided December 17, 1926.

COMMISSION'S INVESTIGATION—CERTIFICATE—VEHICLE FERRY.—It is found that Southern Pacific Company is not required under section 50 (*d*) of the Public Utilities Act to obtain a certificate to operate vehicular ferry service between San Francisco and Alameda, and the investigation to determine whether that company should be required to cease and desist operation of such ferry service until the company has obtained a certificate from the Railroad Commission authorizing such operation, is dismissed.

EXEMPTION.—It is the opinion of the Commission that the company is not limited by virtue of the exemption contained in section 50 (*d*) of the Public Utilities Act to the class of service covered by the tariffs lawfully on file with the Commission on August 16, 1923, the effective date of that act, and that the company may properly amend its tariffs to include rates for vehicular service, it having been engaged prior to that date in operations between the points involved in the proceeding.

DISSENTING OPINIONS.—Commissioners Brundige and Seavey dissent from the majority opinion, holding that the tariffs and schedules lawfully on file with the Commission on the effective date of the act giving the Commission certificating jurisdiction over carriers on the inland waters of California, define the scope and extent of the operations that may be engaged in under the exemption, and that a carrier may not engage in a different operation without having first obtained from the Commission a certificate authorizing such operation.

Henley C. Booth and *E. J. Foulds*, for Southern Pacific Company, Respondent.
Dudley Sales and *Derlin and Brookman*, by *Douglas Brookman*, for Golden Gate Ferry Company, Intervener.

BY THE COMMISSION.

OPINION.

This proceeding was instituted by an order dated September 3, 1926, instituting an investigation upon this Commission's own motion into the rendering of a vehicular ferry service by the Southern Pacific Company, a public utility, between San Francisco and Alameda, in this state, without first having obtained from this Commission a certificate declaring that public convenience and necessity required or would require such operation. The Southern Pacific Company, on said date, September 3, 1926, had begun the operation of a vehicular ferry service between its Alameda pier and San Francisco without first having obtained such a certificate of public convenience and necessity. The service appeared to be a new service, and it appeared that probable cause existed for this Commission to require the Southern Pacific either to obtain such a certificate or to cease and desist from rendering such ferry service. The Southern Pacific Company was directed to appear before the Commission and show cause, if any it had, why it should not be required to cease and desist from such service and operation unless and until it should have secured from the Commission a certifi-

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cate, declaring that public convenience and necessity required, or would require, such service.

At the time and place set in the order to show cause the Southern Pacific Company appeared by its attorneys and filed a formal return to the order, and requested that a day be set for the taking of testimony and a hearing on the merits of the issues raised by said Commission's order and the return thereto. Golden Gate Ferry Company appeared at said hearing by its attorneys, and requested to be permitted to intervene in said proceeding inasmuch as it then had pending before the Commission an application for a certificate of public convenience and necessity to operate a vehicular ferry service between Alameda and San Francisco—Application No. 12673. The Commission granted the request and permitted Golden Gate Ferry Company to intervene. Several subsequent hearings were held and testimony introduced by the two companies. Questions involved in this proceeding were argued at length by counsel for the parties on October 2, 1926, and the matter was then submitted for decision.

The question at issue herein resolves itself into an interpretation of a recent statute adding to this Commission's duties, that of certificating the operations of vessels upon the inland waters of this state. In 1923, by an amendment to section 50 (*d*) of the Public Utilities Act, it was provided, in part, as follows:

> (*d*) No corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, shall hereafter operate or cause to be operated, any vessel between points exclusively on the inland waters of this state, without first having obtained from the railroad commission a certificate declaring that present or future public convenience and necessity require or will require, such operation, but no such certificate shall be required of any corporation or person which is actually operating vessels in good faith, at the time this act becomes effective, between points exclusively on the inland waters of this state under tariffs and schedules of such corporations or persons, lawfully on file with the railroad commission.

The effective date of this enactment was August 16, 1923. Whether or not the Southern Pacific Company may be permitted to continue its operations under investigation in this proceeding depends upon the construction to be given to the above quoted enactment.

It is contended by counsel for the Southern Pacific Company that the company's operation is such as to bring it squarely within the exception contained in section 50 (*d*). More specifically, it is contended that on Agust 16, 1923, the effective date of the act in question, it was operating vessels in good faith between points exclusively on the inland waters of this state, namely, from Alameda pier to San Francisco, under tariffs and schedules lawfully on file with the Commission.

Counsel for the Golden Gate Ferry Company, on the other hand, contend that section 50 (*d*), when properly construed, requires that

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the Southern Pacific Company first obtain a certificate from this Commission before inaugurating the service in question, and that the said operation does not fall within the terms of the exception contained therein. More particularly, it contends that the Southern Pacific Company, on the effective date of the act, was neither operating "vessels" or operating "between points exclusively upon the inland waters" or operating "under tariffs and schedules * * * lawfully on file with the Railroad Commission" within the meaning of those provisions of the exception of section 50 (*d*) of the Public Utilities Act above quoted. The Golden Gate Ferry Company therefore urges that the Southern Pacific Company be enjoined from operating the service in question unless and until it has obtained a certificate of public convenience and necessity.

The record in this matter shows that on August 16, 1923, the effective date of section 50 (*d*) of the Public Utilities Act, Southern Pacific Company was a common carrier of freight and passengers, operating a railroad system and numerous boats, and was actually operating vessels, in good faith, between its Alameda pier and San Francisco under tariffs and schedules lawfully on file with the Railroad Commission. The said schedules did not list tariffs covering vehicular ferry service between Alameda pier and San Francisco, but covered passenger service exclusively.

The record further shows that on July 15, 1926, in compliance with the provisions of section 15 of the Public Utilities Act of 1911, as amended, the company filed with the Railroad Commission amended schedules and tariffs covering vehicular service on the boats operating between Alameda pier and San Francisco (Local Freight Tariff No. 380-K and Local Passenger Tariff BM. No. 1 (General Freight Department C. R. C. No. 2612) (General Passenger Department C. R. C. 2979), effective on and after August 15, 1926), and thereafter, and after the lapse of more than thirty days, as provided by section 15, and on September 3, 1926, commenced the carriage of vehicles and their contents between the points above named. The operation called in question by the Commission in this proceeding is the operation of vessels between Alameda pier and San Francisco under the said schedules and tariffs filed on July 15, 1926.

The immediate question presented in this proceeding is whether the Southern Pacific Company, by virtue of its operations between its Alameda pier and San Francisco on the effective date of the act in question, August 16, 1923, is now possessed of a right to operate vessels for the transportation of vehicles between said points, or is only free to operate as to the class of service covered by its tariffs and schedules lawfully on file with the Commission on said effective date—namely, passenger service.

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We are of the opinion that the operative right possessed by the Southern Pacific Company, by virtue of the exemption contained in section 50 (*d*) of the Public Utilities Act is not limited to the class of service covered by the tariffs lawfully on file with the Commission on the effective date thereof, and that the said company may properly amend its tariffs to include therein rates for vehicular service, as has been done in this case. Since the enactment of the Public Utilities Act of 1911 it has always been possible for a carrier to thus amend its tariffs. (Section 15, Public Utilities Act, as amended.) The Southern Pacific Company in this matter, in amending its tariffs to cover vehicular service observed the requirements of section 15, *supra*.

We are of the opinion that a corporation possessed of a right to operate vessels between given points under the exemption of section 50 (*d*) may properly amend its tariffs to cover commodities not theretofore transported.

In view of the foregoing opinion, it follows that this proceeding should be dismissed.

ORDER.

The Railroad Commission, upon its own motion, having instituted an investigation into the rendering of a vehicular ferry service by the Southern Pacific Company, a public utility, between San Francisco and Alameda, in this state, without first having obtained from this Commission a certificate declaring that public convenience and necessity require, or will require, such operation, and the Southern Pacific Company having been ordered to appear and show cause, if any it had, why it should not be ordered to cease and desist such operations unless and until it should obtain from this Commission such a certificate declaring that public convenience and necessity require, or will require, such service; public hearings having been held, evidence having been submitted, the Commission being apprised of the facts and being of the opinion that under section 50 (*d*) of the Public Utilities Act no certificate of public convenience and necessity for such service is necessary, and that this proceeding, therefore, should be dismissed;

It is hereby ordered, that the above-entitled matter, being Case No. 2275, be and the same is hereby dismissed.

That the effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this seventeenth day of December, 1926.

EZRA W. DECOTO,
LEON O. WHITSELL,
THOS. S. LOUTTIT,
Commissioners.

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DISSENTING OPINION OF COMMISSIONER BRUNDIGE.

In my opinion the legislature clearly intended in adopting section 50 (*d*) to give equal rights to all operators of vessels upon the inland waterways regardless of whether they were operating at the time the act became effective, or whether they later secured a certificate in conformity with the provisions of the act. To hold that the legislature intended to discriminate between old and new operators and to confer advantages and privileges upon the former that it denied to the latter seems to me to be an unreasonable assumption.

If section 50 (*d*) be read in the light of what I believe to be the legislative intent, then we may reasonably conclude that "the tariffs and schedules * * * lawfully on file with the Railroad Commission" define the scope and extent of the operations that may be engaged in under the exemption. With proper tariff filing rates may be altered; the time of arrival and departure of vessels may be changed; if the operation be for the carriage of freight, commodities may be dropped from or added to the list; but the operator may not engage in a different type or character of business from that specified in his tariffs and schedules.

At the time the act became effective the tariffs and schedules on file by the Southern Pacific Company contained no rate whatever for the transportation of vehicles between San Francisco and Alameda.

In my opinion the Southern Pacific Company is engaged in the business of carrying vehicles between San Francisco and Alameda without authority in law, and should be required to cease and desist unless and until it secures such authority.

H. W. BRUNDIGE, *Commissioner.*

DISSENTING OPINION OF COMMISSIONER SEAVEY.

I can not agree with the majority opinion as above expressed for the following reasons:

Subdivision (*d*) of section 50 of the Public Utilities Act has brought under full regulation the operation of vessels in the inland waters of the state and has preserved to the owners of existing lines the rights which they were exercising on the effective date of the law. The rights are defined as the operation of any vessel between points exclusively on the inland waters of this state under tariffs and schedules lawfully on file with the Railroad Commission. If no tariffs and schedules were on file there were no legal operations. It follows that within reason the tariffs and schedules measure the undertaking to serve the public—that is to say, if only freight tariffs and schedules were on file the undertaking was limited to freight and there was no passenger obligation, and vice versa.

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In the instant case, Southern Pacific Company had on file the proper tariffs and schedules and transported passengers only between the points involved. In addition to passengers, it now seeks to maintain a right to carry freight and automobiles between such points without obtaining a certificate from this Commission.

From the standpoint of effective regulation, it seems to me the duty of this Commission to insist on Southern Pacific Company obtaining a certificate unless otherwise ordered by the court.

C. L. SEAVEY, *Commissioner.*

DECISION No. 17767.

IN THE MATTER OF THE APPLICATION OF THE KINGSBURG TELEPHONE COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA FOR AUTHORITY TO WITHDRAW FROM THE STATUS OF A PUBLIC UTILITY IN THE FURNISHING OF TELEPHONE SERVICE IN THE SUBURBAN AREA SURROUNDING THE PRIMARY RATE AREA OF THE KINGSBURG EXCHANGE OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Application No. 13197.

Decided December 17, 1926.

ABANDONMENT—SERVICE—TELEPHONE UTILITY.—Kingsburg Telephone Company authorized to withdraw from its public utility status in furnishing telephone service in the suburban area of the Kingsburg Exchange of The Pacific Telephone and Telegraph Company, and is relieved of all public utility obligations.

A. Leon Peterson, Secretary, for Applicant, Kingsburg Telephone Company.

BY THE COMMISSION.

OPINION.

In this proceeding the Kingsburg Telephone Company asks for authority to withdraw from the status of a public utility in the furnishing of telephone service in the suburban area surrounding the primary rate area of the Kingsburg exchange of The Pacific Telephone and Telegraph Company.

A hearing was held in this matter at which it appeared that the applicant is engaged in furnishing telephone service to its members only at locations in the suburban area of The Pacific Telephone and Telegraph Company's Kingsburg exchange. Applicant's system is comprised of some fifty farmers' lines serving approximately 460 stations.

A. Leon Peterson, secretary of applicant, stated at the hearing that the practice is that before an applicant for telephone service may be provided with service by this company he must first purchase a share in the company for $20, sign the by-laws, and be voted a member by the board of directors. The member must purchase and maintain

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the telephone instrument over which he receives service and should the installation of his service require a line extension costing in excess of $20, he is required to pay for that excess cost. Shares in the company are not redeemable but may be sold to a member, or to a new applicant for service for any consideration, in which event the purchaser must be voted a member before being served.

The applicant owns and maintains all lines from the subscriber's premises to the boundary of the primary rate area of the exchange from which point connection with the central office of the Kingsburg exchange is made by lines owned by the Pacific Company. Switching service to and from, and between applicant's lines, is furnished by the Pacific Company and each member of applicant pays to the Pacific Company the charges for this service. Toll service is likewise furnished to applicant's members by the Pacific Company and for this service the Pacific Company bills the charges to and collects them from the individual members according to their usage. Applicant does not participate in a division of this toll revenue, and makes no charges to its members for service other than pro rata assessments levied by the board of directors from time to time to provide for maintenance and repairs.

Although applicant has for some time past been filing its reports of operation with this Commission, it is evident from the testimony before us that its operations are, in fact, those of a typically mutual telephone company. We therefore believe that its present application should be granted, no public policy contrary thereto appearing.

ORDER.

Kingsburg Telephone Company having requested the Railroad Commission of the State of California for an order authorizing it to withdraw from the status of a public utility in the furnishing of telephone service in the suburban area of the Kingsburg exchange of The Pacific Telephone and Telegraph Company, a hearing having been held and the matter now being ready for decision;

It is hereby found as a fact that the operations of said applicant are and have been mutual in nature rather than of a public utility character, and basing its order on the foregoing finding of fact and upon the statements of fact contained in the opinion preceding this order;

It is hereby ordered, that applicant, Kingsburg Telephone Company, be and it is hereby relieved of any and all obligations as a public utility telephone company.

Dated at San Francisco, California, this seventeenth day of December, 1926.

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DECISION NO. 17768.

IN THE MATTER OF THE APPLICATION OF THE PLYMOUTH WATER COMPANY, A CORPORATION, FOR PERMISSION TO ADJUST THE METER RATES.

Application No. 13029.

Decided December 17, 1926.

RATES—WATER UTILITY—TO ADJUST.—Plymouth Water Company authorized to adjust meter rates to effect a more equitable return upon the investment.

FULL RETURN.—Not allowed as system was planned for a larger number of consumers than is now being served.

M. C. Randolph, for Applicant.
Ralph McGee, for Town of Plymouth.

LOUTTIT, *Commissioner*.

OPINION.

Plymouth Water Company, a corporation, applicant in the above entitled proceeding, is engaged in the public utility business of supplying water for domestic and commercial purposes to the inhabitants of the town of Plymouth, in Amador County. The application alleges in effect that the present rates for metered service are noncompensatory and insufficient to produce an adequate return upon the investment over and above the maintenance and operating expenses and depreciation. The Commission therefore is requested to adjust the present rates for metered service to provide a fair return upon the investment.

A public hearing in this proceeding was held at Plymouth after all interested parties had been duly notified and given an opportunity to be present and be heard.

Plymouth Water Company was organized and incorporated in 1881. The water supply is obtained from the Enterprise or Ritter Ditch belonging to the Lane and Hobart Estate Company, for which a monthly flat rate charge of $75 is made. This ditch was installed in the early days to supply water for mining purposes and is still used to some extent for mining at the present time. Water is pumped from the ditch by a six-inch centrifugal pump operated by a 75-horsepower electric motor and delivered either directly into the mains or into a concrete distributing reservoir of 300,000 gallons capacity, located at an elevation of approximately 185 feet above the main business district of the town of Plymouth. At one time electric power for pumping was furnished without charge by the Plymouth Consolidated Mines, Limited, in return for fire protection and a small amount of water furnished for domestic use at the mine. Recently, however, this mining property has been acquired by the Argonaut Mining Company, which has dispensed with the use of water from the Plymouth Water Company and has very substantially increased the rate charged

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for electric power, resulting in an increased cost of operation for pumping.

The distribution system consists of approximately 19,000 feet of mains ranging from 18 to 2 inches in diameter, including a separate high pressure fire main leading directly into the business section of the town. On July 31, 1926, there were 100 active consumers on this system, 76 of which were metered. Meters are now being installed on the remaining services, and according to the testimony the system will be completely metered before the end of this year.

The rates now in effect on this system were established by the Commission in its Decision No. 8848, dated April 12, 1921, and are as follows:

Monthly Flat Rates.

Residences and tenements of not more than five rooms occupied by single families	$1 50
(Additional charges for other facilities.)	

Monthly Minimum Meter Rates.

For ¾ inch and § inch meters	$1 25
For 1 inch meter	2 25
For 1½ inch meter	3 00
For 2 inch meter	3 75

Monthly Quantity Rates.

For 400 cubic feet or less per month	$1 25
For use between 400 and 1600 cubic feet, per 100 cubic feet	20
For use over 1600 cubic feet, per 100 cubic feet	15

Prior to the establishment of the above rates this system was operated upon flat rate charges of $2.00 per month for residences and stores. The unrestricted use of water obtaining under the flat rate system of charges had resulted in an inadequate supply of water for the requirements of the community, and in the above decision the Commission recommended that steps be undertaken by the utility for the metering of the system.

No valuation of the physical properties of this system was presented by the utility other than the statement set out in the application in this proceeding to the effect that the historical cost of the property at the time of the filing of the application amounted to approximately $26,624, with an annual depreciation fund amounting to $380. In this application the operating expenses for the year 1925 were claimed to be $2,896.50.

A report was presented by R. E. Savage, one of the Commission's engineers, in which the estimated original cost of the system as of July 31, 1926, was found to be $25,966, with a corresponding depreciation annuity of $542, computed by the sinking fund method at 5 per cent. This valuation was based upon the value of the property amounting to $22,124 established by the Commission as of November 1, 1920,

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as the rate base in its Decision No. 8848, referred to above, to which net additions and betterments subsequent thereto were added. The report of the Commission's engineer based upon an analysis of the accounts of the utility and a study of the operating methods set out the estimated reasonable annual costs of operation to be $2,593 for the immediate future. The revenues receivable for the year 1925 were found to be $3,300. Based upon the foregoing figures the operations for the year 1925 have resulted in a net return of approximately .63 per cent upon an investment of $25,966.

According to the testimony, in 1921 this system served approximately 125 active consumers. At the present time 100 are being served. This community apparently is dependent to a large degree upon the extent of activity in the mining industry in the immediate vicinity. Although the number of consumers has been gradually decreasing for the past five years, it is confidently expected that the present renewal of mining operations in one of the mines at Plymouth, although not upon an extensive scale at this time, should result in the bringing in to Plymouth of many new families.

Analysis of the conditions affecting the operations of this utility indicates that upon a complete metering of the system the present minimum monthly charge for metered service of $1.25 is inadequate to enable the utility to be reasonably compensated for the service which it must render. Unquestionably an adjustment in the present rate schedule must be made if this company is to be required to continue in operation and render proper and adequate service.

Considerable testimony was introduced at the hearing to the effect that consumers residing at the higher elevations of the town have received very poor and intermittent service, as a result of the failure of this utility to operate its pump a sufficient length of time during the day to maintain proper pressure in the mains and an adequate supply of water in the storage reservoir. Complaint was also made to the effect that the water served from the reservoir was disagreeable in taste and offensive in odor during the summer months. Further complaint was made that the responsible owner of this utility is a nonresident and does not maintain a local operator of the system for a sufficient length of time during the day to properly take care of the operation of the water system. It appears to the Commission that it would be advisable for this utility to obtain the services of a resident of Plymouth who shall be employed for a sufficient amount of time during each day to enable him to properly operate the system and maintain adequate service to the consumers at all times. Such a representative should be available at all times in cases of emergency

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and given responsible charge of the local affairs of this utility. This company will be required by the Commission to operate its pumping plant in such a manner as to provide at all times during the day and night adequate service at reasonable pressure throughout all parts of the system, including the higher elevations of the town. Water stored in the reservoir should be maintained reasonably near maximum capacity, but should be constantly circulated throughout the system in order to avoid foul and stagnant water.

A careful consideration of the evidence presented in this matter shows that the sum of $25,966 is a reasonable rate base to be used for the purposes of this proceeding, and that the sum of $2,600 is a reasonable allowance for the annual cost of maintenance and operation for the immediate future. However, the testimony further shows that this system is designed to serve a far greater number of people than reside in the community at present. The number of consumers has in recent years shown a considerable decrease, rather than the increase that should be expected under normal conditions. Under these circumstances a full return upon the investment over and above the reasonble costs of maintenance and operation, including depreciation, is not to be expected at this time. The rates fixed in the accompanying order, it is believed, will result in producing increased revenues in the future and will also return by way of interest upon the investment an amount which under existing circumstances will be fair and reasonable.

The following form of order is recommended:

ORDER.

Plymouth Water Company, a corporation, having made application to the Railroad Commission as entitled above, a public hearing having been held thereon, and the matter having been submitted,

It is hereby found as a fact that the rates now charged by Plymouth Water Company, a corporation, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for the service rendered.

Basing its order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Plymouth Water Company, a corporation, be and it is hereby authorized and directed to file with this Commission within twenty days from the date of this order, the following schedule of rates, to be charged for all service rendered to consumers on and after January 1, 1927:

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Meter Rates.

Minimum Monthly Charges—	
⅝ inch meter	$2 00
¾ inch meter	2 25
1 inch meter	3 00
1½ inch meter	5 00
2 inch meter	7 50

Each of the foregoing "minimum monthly charges" will entitle the consumer to the quantity of water which that minimum charge will purchase at the following monthly quantity rates:

Monthly Quantity Rates—	
600 cubic feet or less	$2 00
600 to 1500 cubic feet, per 100 cubic feet	25
1500 to 2500 cubic feet, per 100 cubic feet	20
2500 to 5000 cubic feet, per 100 cubic feet	15
Over 5000 cubic feet, per 100 cubic feet	13
Fire hydrants on mains 4 inches in diameter or larger, per month	1 75
Fire hydrants on mains less than 4 inches in diameter, per month	1 25
All water for street and road sprinkling purposes, per 100 cubic feet	15

It is hereby further ordered, that Plymouth Water Company, a corporation, be and it is hereby directed to file with this Commission, within thirty days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by this Commission.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of December, 1926.

Decision No. 17769.

IN THE MATTER OF THE PETITION OF THE TRACY GAS COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO FURNISH GAS TO THE CITY OF TRACY, SAN JOAQUIN COUNTY, AND FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ONE HUNDRED THOUSAND DOLLARS OF ITS CAPITAL STOCK AND ONE HUNDRED THOUSAND DOLLARS OF ITS FIRST MORTGAGE BONDS TO FINANCE SUCH CONTEMPLATED IMPROVEMENT.

Application No. 13295.

Decided December 20, 1926.

Certificate—Gas Utility—Stock—To Issue.—Certificate granted applicant to establish gas plant and distributing system in city of Tracy, as provided in city franchise. Issuance of $75,000 of stock authorized. Application so far as it relates to $25,000 of stock and $100,000 of bonds held in abeyance.

Leon Melchor, for Applicant.

By The Commission.

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OPINION.

Tracy Gas Company asks the Commission to declare that public convenience and necessity require and will require it to construct, maintain and operate an artificial gas plant in the city of Tracy and to exercise the rights and privileges granted by the city of Tracy in an ordinance awarded August 5, 1926, and filed in this proceeding. The company further asks the Commission to authorize it to issue and sell $100,000 of common stock and $100,000 of first mortgage 6 per cent twenty-year bonds to pay the cost of constructing said gas plant.

Tracy Gas Company was recently organized with an authorized capital stock of $150,000 divided into 15,000 shares of the par value of $100 each. Among other things, the corporation is authorized to acquire, hold, manage and operate buildings, tanks, machinery, pipes and pipe lines and any and all other appliances for manufacturing, producing and distributing gas and its by-products and any and all other illuminant products for light, heat, power and any and all other beneficial uses and purposes to which they may be applied.

Tracy Gas Company proposes to construct forthwith an artificial gas plant in the city of Tracy at an estimated cost of about $145,000. This cost is segregated as follows:

Two acres of land in the city limits of Tracy	$5,000 00
One 50,000 cubic foot gas holder delivered and erected	18,000 00
One double setting Beale patented gas generator	5,750 00
One scrubber 6 ft. diameter by 20 ft.	1,850 00
Three purifiers 6 ft. diameter by 8 ft.	3,400 00
One purifier 10 ft. by 10 ft.	1,850 00
Two horizontal boilers 150 h.p.	10,000 00
Two steam turbines for blower	600 00
Two water pumps	300 00
Two oil pumps	200 00
Two No. 5 Champion blowers	170 00
One 30,000 gallon oil tank	3,000 00
Concrete foundations for gas holder apparatus and lamp black runs and pits	7,000 00
700 gas meters at $10 each	7,000 00
50,200 ft. of 2", 4" and 6" mains	25,341 00
50,000 ft. of trenching and laying said mains	12,500 00
Fitting, valves and drips	1,500 00
700 gas services 100' each and 70,000 ft. of 1" pipe	9,100 00
15,000 ft. of smaller size pipes with necessary valves, stops and fittings	3,000 00
700 stop cocks for meters	560 00
Tools, signs and auto trucks	2,000 00
Brick building 30 x 60 and other necessary buildings	8,000 00
Fire bricks for generators	3,000 00
Cost of welding pipes	3,000 00
Concreting and repairing streets	5,000 00
Engineering, supervision, construction and contingencies	4,000 00
Traveling and miscellaneous expenses	2,000 00
Organization expenses	1,500 00
Actual money expended in obtaining franchises	500 00
Total	$145,121 00

Subsequent to the hearing applicant has agreed to install a station motor testing equipment, a second scrubber and office equipment at a

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total estimated cost of $4,750. Instead of constructing a brick building it has agreed to construct its building of wood frame and galvanized iron which will reduce the cost from $8,000 to approximately $4,000. It will be noted that the cost of the building will be reduced by about the same amount as the estimated cost of the additional equipment which the company has agreed to purchase.

The company estimates that during the first year of its operation it can obtain 700 gas consumers. The monthly income of the company is estimated at $3,500, or at $42,000 per annum. The company estimates its operating expenses at $1,784 per month, or at $21,408 per annum. Our investigation and analysis of applicant's estimated expenses leads us to believe that it has not included in its estimate all items of expenses. We are of the opinion that applicant's operating expenses will more nearly approximate $30,500 than the sum reported by it. Assuming that it can realize a revenue of $42,000 and that its expenses will amount to $30,500, it will have available for interest and other fixed charges, dividends and surplus, $11,500.

There is filed in this proceeding a notice of sale of a franchise by the city of Tracy granting the right to lay gas mains and conduits for a period of fifty years in the public streets, alleys and thoroughfares of the city of Tracy for the purpose of carrying and distributing gas for light, heat and power, and to make connections with said pipes and conduits and the necessary appurtenances to the same. An affidavit filed by George L. Frerichs, clerk of the city of Tracy, shows that John F. Beals was the only bidder for the franchise, that his bid was accompanied by his check for $25 as his initial bid, and that the board of trustees of the city of Tracy struck off, sold and awarded the franchise to said John F. Beals on August 5, 1926. The notice of sale provides that the successful bidder must file with the city clerk a bond running to the city of Tracy in the penal sum of $2,500. This bond has not yet been filed, with the result, it is said, that the franchise has not yet been formally granted to John F. Beals. The notice of sale, however, contains a recital of the terms and conditions of the proposed franchise. One condition reads as follows:

> That the maximum price and charges for gas produced by the contemplated plant of grantees, their successors and assigns, to consumers of the city shall not, during the existence and life of this franchise exceed a minimum charge of one dollar and fifty cents ($1.50) for the first four hundred (400) cubic feet used; two dollars ($2.00) per one thousand (1,000) cubic feet for the next two thousand (2,000) cubic feet; and one dollar and fifty cents ($1.50) per one thousand (1,000) cubic feet, for all over two thousand four hundred (2,400) cubic feet.

This provision is, we feel, of no effect, for the reason that the Railroad Commission has complete jurisdiction over the rates which Tracy Gas Company may charge. Those provisions of the franchise relating to the construction of the plant must necessarily be observed by John F. Beals, his successors or assigns.

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As shown above, applicant reports that $500 has been actually expended in acquiring the franchise. The record shows that John F. Beals paid to the city of Tracy $25 to obtain the franchise, and that in addition he will be charged with approximately a like sum to cover advertising cost. The amount which the Tracy Gas Company may charge to capital account because of the acquisition of the franchise will be the $25 plus the amount actually expended by John F. Beals or his assignee to reimburse the city for advertising the notice of sale of the franchise. Inasmuch as the Commission has not been furnished with a copy of the franchise, we can not make a final order granting applicant a certificate of public convenience and necessity. The order herein grants a preliminary certificate.

Applicant asks permission to issue $100,000 of common stock and $100,000 of 6 per cent twenty-year bonds. Of the stock it intends to deliver $600 par value to John F. Beals in payment for the franchise rights referred to herein, and deliver to John F. Beals $4,000 par value in payment for services rendered in making the necessary investigations and engineering reports. Furthermore, the company requests permission to use $600 of stock proceeds to pay attorney fees and organization expenses, and use 20 per cent of the stock proceeds to pay commissions and expenses to sell the stock. The remainder of the proceeds it proposes to use to pay in part the cost of its gas plant. It will be observed that the company has included in the estimated cost of the gas plant $4,000 for engineering, supervising and construction contingencies, $2,000 for traveling and miscellaneous expenses, $1,500 for organization expenses and $500 to cover expenses incident to obtaining the franchise. The Commission has not been furnished with any statement showing the expenditures incurred by John F. Beals to obtain the franchise or prepare his engineering report.

The plans and engineering report submitted to the Commission do not warrant a $4,000 expenditure. Moreover, to issue stock to John F. Beals for the purposes stated and also include the items mentioned in the estimated cost of the plant would result in a duplication. The request to issue stock to John F. Beals, as herein requested, will be denied, for the reason among others that the Commission has not been furnished with proper evidence to justify such issue. In regard to applicant's request to use 20 per cent of the stock proceeds to pay commissions and expenses, we feel that such an expenditure is unreasonable. The order herein will permit the company to use 12½ per cent of the proceeds for such purposes. The balance of the proceeds from the sale of stock must be deposited in a bank or banks and may be expended only for the purposes hereinafter authorized.

Applicant, as said, asks permission to issue $100,000 of 6 per cent twenty-year bonds. It has entered into no agreement for the sale of

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the bonds and has submitted to the Commission neither a form of the bond nor a copy of its proposed deed of trust. We feel that it is proper for the company to issue not exceeding $100,000 of bonds to pay in part the cost of its gas plant, provided it can sell enough stock to establish a reasonable equity for the bonds and that it submits in satisfactory form a deed of trust. We will not authorize the issue of the bonds until we are furnished with satisfactory information showing that the company has sold at par $50,000 or more of its stock and has on deposit in some bank or banks at least 75 per cent of the selling price of such stock. No contracts for the purchase of material or the construction of the plant may be entered into by applicant until it has the aforesaid moneys on deposit. The order herein is of a preliminary nature.

If an applicant expects a final order in a proceeding of this kind it should come to the hearing prepared to submit a complete case. In this instance no engineer was called by applicant to testify in support of its estimated cost of the plant reported at $145,121 or in support of its reported revenues and expenses. Such estimates were submitted by applicant and found reasonable by the engineering department of the Commission except that the department reports the operating expense estimate too low. Applicant's secretary admitted the omission of certain items of expense. Neither a form of the bond, nor a copy of the deed of trust was submitted, nor was any competent evidence submitted in support of the request to issue stock to John F. Beals for services rendered.

ORDER.

Tracy Gas Company, having applied to the Railroad Commission for permission to construct, maintain and operate an artificial gas plant, as indicated in the foregoing opinion, and for permission to issue not exceeding $100,000 of common stock and not exceeding $100,000 of 6 per cent twenty-year bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that public convenience and necessity require and will require the construction, operation and maintenance of the gas plant referred to herein and that Tracy Gas Company should at this time be permitted to issue not exceeding $75,000 of its common capital stock subject to the provisions of this order, and that this application in so far as it involves the issue of $25,000 additional stock and $100,000 of bonds, should be held in abeyance, and that the money, property or labor to be procured or paid for by the issue of the stock herein authorized, is reasonably required by applicant and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income, therefore,

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The Railroad Commission hereby declares that hereafter, upon the filing of a certified copy of an ordinance of the city of Tracy granting to John F. Beals, his successors and assigns, a franchise to construct, operate and maintain an artificial gas plant; a properly executed assignment of said franchise to Tracy Gas Company; and a stipulation duly authorized by its board of directors declaring that Tracy Gas Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for said rights and privileges in excess of the amount actually paid to the city of Tracy as the consideration for the grant of such franchise, which amount is represented by Tracy Gas Company to have been $———; the Railroad Commission will declare that public convenience requires and will require the exercise by applicant of the rights and privileges granted to it by such ordinance, subject to such terms and conditions as the Railroad Commission may prescribe.

It is hereby ordered, that Tracy Gas Company be and it is hereby authorized to issue and sell on or before October 1, 1927, for cash at not less than par $75,000 of its common capital stock. Of the proceeds realized from the sale of such stock, an amount not exceeding 12½ per cent may be expended by applicant to pay commissions and all other expenses incident to the sale of such stock. All remaining proceeds shall be deposited with a bank or banks and may be expended by applicant only for such purposes as the Commission will authorize by a supplemental order or orders.

It is hereby further ordered, that Tracy Gas Company shall not enter into any contract for material or enter into any contract for the construction of its proposed gas plant until it has sold at least $50,000 of the stock herein authorized to be issued and has on deposit with a bank or banks at least 75 per cent of the selling price of said stock.

It is hereby further ordered, that the authority herein granted to issue stock shall become effective upon the date hereof.

It is hereby further ordered, that Tracy Gas Company shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted to construct, maintain and operate a gas plant, will become effective when applicant has filed the stipulation referred to herein, and when applicant has on deposit with a bank or banks at least 75 per cent of the selling price of $50,000 of stock.

Dated at San Francisco, California, this twentieth day of December, 1926.

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DECISION NO. 17772.

IN THE MATTER OF THE APPLICATION OF CENTRAL COUNTIES GAS COMPANY FOR A PERMIT TO ISSUE ONE HUNDRED FIFTY THOUSAND DOLLARS OF ITS FIRST MORTGAGE TWENTY-YEAR SIX PER CENT SINKING FUND GOLD BONDS.

Application No. 7498.

Decided December 20, 1926.

SECURITIES—BONDS—TO ISSUE.—Applicant authorized to issue and sell $49,000 additional of a bond issue of $150,000 and to use the proceeds thereof to pay in part outstanding debentures.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 10100 dated February 17, 1922, as amended by Decision No. 11011, dated September 21, 1922, authorized Central Counties Gas Company, among other things, to issue $150,000 of its first mortgage 6 per cent bonds due January 1, 1939, and to pledge them with the trustee under the trust agreement dated July 1, 1921, as collateral security for the payment of the $150,000 of serial debenture bonds issued pursuant to Decision No. 9054, dated July 4, 1921, as amended, or to exchange them for a like amount of debenture bonds under the provisions of said trust agreement upon the basis of 105 and accrued interest for debenture bonds at par and accrued interest; and

Whereas, the Commission by supplemental orders in the above entitled matter has authorized Central Counties Gas Company to sell $90,000 of said first mortgage bonds for the purpose of paying in part the $90,000 of debenture bonds which matured July 1, 1924, and July 1, 1925, and July 1, 1926; and

Whereas, Central Counties Gas Company now asks permission to sell an additional $49,000 of said $150,000 of first mortgage bonds at not less than 96 per cent of face value plus accrued interest and to use the proceeds to pay in part $49,000 of debenture bonds now outstanding which applicant reports will be called for payment on January 1, 1927; and

Whereas, the Commission has considered applicant's request and believes it should be granted, as herein provided; therefore

It is hereby ordered, that the order in Decision No. 10100, dated February 17, 1922, as amended by Decision No. 11011, dated September 21, 1922, be and it is hereby further modified so as to permit Central Counties Gas Company to sell on or before January 31, 1927, at not less than 96 per cent of face value plus accrued interest $49,000 of the first mortgage bonds authorized to be issued, pledged or exchanged by said decision, as amended, and to use the proceeds to

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pay in part the $49,000 of debenture bonds now outstanding, such authority to become effective upon the date hereof.

It is hereby further ordered, that the order in Decision No. 10100 dated February 17, 1922, as amended by Decision No. 11011, dated September 21, 1922, shall remain in full force and effect except as modified by this Fifth Supplemental Order.

Dated at San Francisco, California, this twentieth day of December, 1926.

DECISION NO. 17783.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF MERCED FOR AUTHORIZATION PERMITTING THE CONSTRUCTION OF THE HIGHWAY CROSSING OVER THE ATCHISON, TOPEKA AND SANTA FE RAILROAD, IN SECTION 36, TOWNSHIP 5 SOUTH, RANGE 11 EAST, MOUNT DIABLO BASE AND MERIDIAN.

Application No. 12669.

Decided December 20, 1926.

GRADE CROSSING—STEAM RAILROAD—LOMBARDY AVENUE.—Application of the County of Merced to construct Lombardy avenue at grade across the tracks of The Atchison, Topeka and Santa Fe Railway, granted.

C. H. McCray, District Attorney, for Applicant.
J. W. Walker and *E. T. Lucey*, for The Atchison, Topeka and Santa Fe Railway Company.
J. J. Deuel, for Merced County Farm Bureau.

BY THE COMMISSION.

OPINION.

This is an application by the County of Merced for a crossing at grade over the track of The Atchison, Topeka and Santa Fe Railway Company, in the vicinity of Ballico.

A public hearing thereon was held at Merced, before Examiner Austin, on October 1, 1926, at which time the railway company appeared and protested the granting of the application.

Ballico is situated in the northerly part of Merced County in the undeveloped townsite of the California Land Settlement Board. The railroad station and track facilities have existed for many years. At one time another townsite, the boundaries and streets of which differed somewhat from those of the present undeveloped townsite, was laid out in approximately this same location. The original subdivision, which was to have been the town of Aladdin, lay on both sides of the track with the Santa Fe right of way extending diagonally through it. The new townsite, however, is laid out entirely on the northerly side of the railroad. The only development that has so far taken place is the construction of a school on the site which has been reserved for the purpose. The school building is also used as a community center

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and the meeting place of several organizations. There is also a building used as a hotel and the Ballico post office is located in this building.

The Atchison, Topeka and Santa Fe Railway runs through this portion of Merced County in a general northwesterly and southeasterly direction, crossing the section lines at an angle of approximately forty-five degrees. The county roads in this vicinity, as is customary in districts laid out in sections, are along the section lines or parallel thereto, although there is, in this particular locality, an additional important county road adjacent to and along the northeasterly side of the Santa Fe right of way.

The territory lying to the north of the Santa Fe tracks is but sparsely settled and but little agricultural development has taken place therein. The country to the south and west of the Santa Fe for some four or five miles toward Delhi on the Southern Pacific Company's lines is more intensely developed and most of it is under irrigation.

Rapid settlement is now taking place in this district under the auspices of the Land Settlement Board. It is from this vicinity that the majority of the users of the community facilities at Ballico come and it is necessary that they cross the tracks of the Santa Fe at some point, in order to reach them.

There is at present one public crossing over the track near the center of present Ballico townsite and it connects Ballico avenue, the street which is designated to be the business street of the future town, with what is known as El Capitan avenue. The latter is the main road to Delhi and the state highway. This crossing was granted by the Commission in Decision No. 3113, in Application No. 1428, in 1916, at the time the former subdivision was being promoted. While this crossing was probably originally designed to fit an entirely different layout of public roads, particularly on the southerly side of the track, it does actually furnish convenient access to such development as has already taken place north of the track and to a considerable portion of the more intensely developed territory to the southwest of Ballico, especially to the sections adjacent to El Capitan avenue and Mitchell avenue. There is, however, a small territory reached by Lombardy avenue, an east and west road one-half mile north of Mitchell avenue, which, due to the intervening right of way and tracks of the Santa Fe, has no direct outlet toward the east and toward the Ballico townsite. It is an outlet for this territory that the county now seeks in the present application.

The true line of Lombardy avenue crosses the railroad right of way at an angle of about fifty degrees and at a point where the railroad is on an embankment some six feet in height. Because of the acute angle and the steep approaches necessary, a grade crossing on this line would be particularly hazardous and it is accordingly proposed to locate the

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crossing at a point about 750 feet northwest of the true line where a right angle crossing with 4 per cent approaches can be installed. The necessary right of way for the connecting road has been reserved by the Land Settlement Board.

Until the past year the residents along Lombardy avenue having occasion to cross the track have been accustomed to use a private crossing which existed at a point about half way between the site of the proposed crossing and the crossing at Ballico Station, previously referred to, by means of a permissive traveled way over an unsold parcel of the state property parallel to the railroad right of way and connecting the easterly end of Lombardy avenue with the private crossing. Because of this public use of a crossing which had no legal status as a public crossing, the railroad company early in the present year constructed a barricade and removed the private crossing. Since the date of this closing the public has extended the above mentioned traveled way across private property to the Ballico crossing, a total distance from Lombardy avenue of approximately one-half mile.

The exhibits filed at the hearing in Application No. 1428 may, by stipulation of the parties at interest, be considered by the Commission in the present proceeding. It appears that in the subdivision plans in effect at the time of that hearing a public thoroughfare was proposed along the route of the above encroaching traveled way. It also appears that at that time the county had under consideration the opening of a crossing approximately at the site of the one proposed in the instant application but by order of the board of supervisors, dated October 6, 1915, application for this crossing was withdrawn. It is presumed that it was deemed feasible to divert the travel that would use the proposed crossing to the Ballico crossing by way of the dedicated street along the southwesterly side of the railroad.

The title to this road passed to the State of California on August 7, 1923, as Merced County abandoned the streets and roads within the limits of the townsite of Aladdin which it had previously accepted. Subsequently, a portion of the right of way of this previously dedicated road was sold and is now in private ownership.

The amount of travel having occasion to cross the Santa Fe tracks in this vicinity is very small and could be adequately cared for by one crossing centrally located with convenient means of access. If the original layout of public thoroughfares which the Commission no doubt took into consideration in granting the former application had been adhered to, there would now be no need for the county to come before this Commission seeking a second crossing. The county of Merced should be well aware of the policy of the Commission, which seeks to keep the number of grade crossings of public roads with railroad tracks at a minimum consistent with public convenience and necessity and in

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the laying out, acceptance or abandonment of streets and roads in the vicinity of railroads, it would be well for governing bodies to adopt procedure consistent with this policy. In the present case practically all of the lands involved were, until recently, in one ownership and that owner the State of California, and the problem of public crossings over the track and right of way of The Atchison, Topeka and Santa Fe Railway could, with proper study, have been solved for many years. As this apparently was not done, we believe that the county of Merced should take whatever steps may be necessary to acquire a right of way for and to construct a road connecting Lombardy avenue with El Capitan way and thus eliminate the apparent necessity for the crossing herein applied for.

On the other hand, it does not appear proper that the residents along Lombardy avenue who purchased their holdings with the understanding that they would be furnished with a permanent outlet to the east at some time in the future, and who, in the meantime, have had available for their use an outlet by means of a crossing of uncertain status, should be forced to continue to make a long detour to reach a public grade crossing. It is, therefore, recommended that until such time as the county can provide the proper outlet, suggested above, they should be temporarily given permission to cross the railroad. This crossing can be effected either at the point applied for or, if it is not desired to incur the expense of grading and constructing approaches for temporary use, the old private crossing which the railroad company recently closed could probably be restored and reopened at slight expense and access to it gained without encroachment on any private holdings. It appears that the residents in the vicinity of Lombardy avenue used this latter crossing without inconvenience and, according to some of the testimony in the present record, this crossing was at a more convenient location than the one applied for. Since a crossing at this point appears to offer but little hazard, it is probably the logical point for the temporary crossing. The present application, however, is for a crossing some 2000 feet northwest of this point and this order will therefore provide for a temporary crossing at that location. If the county of Merced prefers to establish this temporary crossing at the prior location of private crossing, as above suggested, it should at once make application accordingly.

ORDER.

County of Merced, State of California, having made application to this Commission for permission to construct a public road at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company near the station of Ballico, in said county, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision; therefore

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It is hereby ordered, that permission and authority be and it is hereby granted to the board of supervisors of the county of Merced, State of California, to construct a public road at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company as follows:

> A tract of land described as commencing at a point in the southerly boundary of the right of way of The Atchison, Topeka and Santa Fe Railway Company, that is N. 52° 11′ W. 737.6 feet from the intersection of the east and west one-half section line through Section 36, Twp. 5 S., R. 11 E., M. D. B. and M., with the southerly boundary of the said right of way; thence along the southerly boundary of said right of way N. 52° 11′ W. 40.0 feet; thence N. 37° 49′ E. 100.0 feet to the northerly boundary of said right of way; thence along said right of way boundary S. 52° 11′ E. 40.0 feet; thence S. 37° 49′ W. 100.0 feet to the point of commencement, containing 0.092 acres;

and as shown by the map attached to the application, said crossing to be constructed subject to the following conditions, namely:

(1) The entire expense of constructing the crossing shall be borne by applicant. The cost of maintenance of said crossing up to lines two feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two feet outside of the outside rails shall be borne by The Atchison, Topeka and Santa Fe Railway Company. No portion of the cost herein assessed to applicant for the construction or maintenance of said crossing shall be assessed by applicant, in any manner whatsoever, to the operative property of The Atchison, Topeka and Santa Fe Railway Company.

(2) The crossing shall be constructed of a width not less than twenty feet and at an angle of ninety degrees to the railroad and with grades of approach not greater than 2½ per cent; shall be constructed substantially in accordance with Standard No. 2 as specified in General Order No. 72 of this Commission; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) Applicant shall, within thirty days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(4) The authorization herein granted for the installation of said crossing shall lapse and become void on December 31, 1927, whereupon said crossing shall be abolished unless further time is granted by subsequent order of this Commission.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this twentieth day of December, 1926.

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DECISION NO. 17785.

IN THE MATTER OF THE APPLICATION OF OAKLAND WAREHOUSE TERMINALS CO., A CORPORATION, FOR AN ORDER AUTHORIZING THE SALE AND ISSUE OF STOCK.

Application No. 13317.

Decided December 20, 1926.

SECURITIES—STOCK TO ISSUE.—Application granted.

Burbank and Spence, by *Homer R. Spence*, for Applicant.

BY THE COMMISSION.

OPINION.

Oakland Warehouse Terminals Co. asks permission to issue and sell at par $24,600 of its common capital stock for the purpose of obtaining funds to engage in the public utility warehouse business.

Applicant was organized under the laws of the State of California on or about August 28, 1926, with an authorized capital stock of $100,000 divided into 1000 shares of the par value of $100 each. The company was authorized by its articles of incorporation, among other things, to engage generally in the storage and transportation of property and to do any and all things generally done or necessary or permitted to be done by one engaged in the business of warehouseman or wharfinger or in the transportation of property or in the storage, drayage, commission or warehousing business.

It is of record that the Haslett Warehouse Company, San Francisco Warehouse Company and the Drayage Service Corporation have caused applicant corporation to be organized. It is the intention of each of the three companies to acquire eighty shares of applicant's stock, and thus provide applicant with the necessary cash to conduct its business. The three corporations ask permission to purchase and hold such stock. They have agreed to pay par for the stock.

It is of record that the management of the three corporations believe that it will be more economical to conduct their Oakland business under applicant corporation than it would be if each were to establish a branch warehouse in Oakland. Neither Haslett Warehouse Company nor the San Francisco Warehouse Company have any warehouses in Oakland. It frequently happens that shippers of merchandise request that it be stored in Oakland rather than in San Francisco. In order to accommodate such requests the Haslett Warehouse Company and the San Francisco Warehouse Company have joined with the Drayage Service Corporation to organize the Oakland Warehouse Terminals Co.

The Oakland Warehouse Terminals Co. has entered into a tentative ten-year lease with the Drayage Service Corporation under the terms of which it would lease one section of the Drayage Service Corporation building located at Fifteenth and Peralta streets, Oakland. It is of

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record that applicant will have under its control approximately 17,000 square feet of floor space and that it may be required to pay a monthly rental of two cents per square foot.

J. W. Howell, secretary and treasurer of Oakland Warehouse Terminals Co. who is also general manager of the Haslett Warehouse Company, testified that in his opinion the company should be provided with $24,600 to pay for equipment and for necessary working capital.

ORDER.

The Railroad Commission having been asked to make an order authorizing Oakland Warehouse Terminals Co. to issue $24,600 of stock and further authorizing Haslett Warehouse Company and San Francisco Warehouse Company and the Drayage Service Corporation each to purchase and hold eighty shares of the capital stock of applicant, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, as follows:

1. Oakland Warehouse Terminals Co. may issue and sell on or before October 1, 1927, for cash, 246 shares ($24,600 par value) of its common capital stock and use the proceeds to acquire warehouse equipment and establish and maintain its warehouse business.

2. San Francisco Warehouse Company, Haslett Warehouse Company and Drayage Service Corporation each respectively may purchase and hold not exceeding eighty shares of Oakland Warehouse Terminal Co.'s capital stock herein authorized to be issued, provided that they pay par for such stock in cash.

3. No stock certificates may be issued by Oakland Warehouse Terminals Co. until it has received the full purchase price for the stock represented by said certificates.

4. The authority herein granted will become effective upon the date hereof.

5. Oakland Warehouse Terminals Co. shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the 25th day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twentieth day of December, 1926.

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DECISION NO. 17786.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO MORTGAGE ITS PROPERTY TO SACRAMENTO NORTHERN RAILWAY.

Application No. 13376.

Decided December 20, 1926.

SECURITIES—MORTGAGE—TO EXECUTE.—Application granted.

Jesse H. Steinhart, for Applicant.

BY THE COMMISSION.

OPINION AND ORDER.

San Francisco-Sacramento Railroad Company asks permission to execute to the Sacramento Northern Railway a mortgage in substantially the same form as the mortgage filed in this proceeding as applicant's Exhibit "B."

The mortgage which San Francisco-Sacramento Railroad Company asks permission to execute will be a lien on all its properties subject to the mortgage or deed of trust executed to the Union Trust Company of San Francisco (now Wells Fargo Bank and Union Trust Company) dated January 1, 1920. The mortgage of January 1, 1920, was executed to secure the payment of an authorized issue of bonds of $3,000,000. Of the bonds $1,040,000 have been issued, of which $252,000 have been redeemed, leaving $788,000 outstanding.

The testimony shows that The Western Pacific Railroad Company has, from time to time, advanced applicant $125,000, which is represented by five promissory notes payable one year after date of issue. Testimony further shows that applicant is indebted to Sacramento Northern Railway in the sum of $23,430.55 as of October 31, 1926. This indebtedness is not represented by notes. It further appears that applicant proposes to borrow from the Sacramento Northern Railway, as of December 31, 1926, the further sum of $75,000, which added to the $23,430.55 makes a total of $98,430.55 of money obtained or to be obtained from the Sacramento Northern Railway. Applicant intends to issue its note payable one year from date with interest at the rate of 6 per cent per annum to represent such loan. In order to secure the payment of the $98,430.55 as well as the $125,000 advanced by The Western Pacific Railroad Company, applicant asks permission to execute the mortgage referred to herein.

A public hearing having been held before Examiner Fankhauser and the Commission having considered the evidence submitted in support of applicant's request and being of the opinion that the request should be granted; therefore,

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It is hereby ordered, that the San Francisco-Sacramento Railroad Company be and it is hereby authorized to execute a mortgage to the Sacramento Northern Railway in substantially the same form as the mortgage filed in this proceeding and marked applicant's Exhibit "B", provided that the authority herein granted to execute said mortgage is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

It is hereby further ordered, that within thirty days after execution of the mortgage herein referred to San Francisco-Sacramento Railroad Company shall file with the Commission a certified copy thereof.

Dated at San Francisco, California, this twentieth day of December, 1926.

DECISION No. 17788.

J. B. LAVENSALER, DAVIS & PATTEN, HILL BROS., CRAWFORD & EDMUNDS, ANTON & GREEN AND J. W. CURRY

vs.

CHARLES KUPPINGER.

Case No. 2169.

Decided December 20, 1926.

RATES—MOTOR FREIGHT—FINDING THE RATES.—Complained of not to be unduly prejudicial or discriminatory, the Commission dismisses the complaint.

W. H. Hazell, for Complainants.
Chas. A. Beck, for Defendant.

BY THE COMMISSION.

OPINION.

The complaint in this proceeding was filed by certain merchants engaged in business at Lakeport, against Charles Kuppinger, who is conducting a motor freight line as a common carrier under certificate from this Commission between Lakeport and Hopland and also between Ukiah and Upper Lake. It alleges that the freight rates charged by defendant between Hopland and Lakeport are excessive and unreasonable; that they are unduly prejudicial to Lakeport and unduly preferential of Upper Lake and Kelseyville, both of which are commercially competitive with Lakeport; that defendant has accorded certain shippers of freight between Hopland and Lakeport rates lower than the published rates; that the rates for such transportation charged certain shippers were lower than those charged other shippers; and that complainants are able to contract with other parties to haul their

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freight between Lakeport and Hopland at a lower rate than that charged by defendant. The complaint prays that defendant's certificate be canceled and that complainants be permitted to contract with other parties for the transportation of their freight between Hopland and Lakeport at a rate not exceeding $6 per ton; or, in the alternative, that defendant's rates be reduced from $8 to not exceeding $6 per ton, and in addition, that he be required to establish special commodity rates on certain articles, such as sugar, salt, flour, feed and grain, also cement, lime, iron and steel, nails, lumber and other heavy building materials.

By his answer, defendant denies that he has charged or received rates differing from those set forth in the published tariffs, except where erroneous rates have been assessed, which errors have been promptly corrected when called to defendant's attention; defendant denies that the rates between Hopland and Lakeport are discriminatory, asserting that the lower rate specified in the complaint covers carload business and can not reasonably or justly be applied to small loads necessiting a pick-up and delivery service; as a separate defense defendant alleges that he is preparing a revised schedule of class and commodity rates, resulting in no increases, but clarifying ambiguities in the existing tariff, and standardizing and reducing rates in numerous instances. As a further separate defense, defendant challenges the Commission's jurisdiction, in a proceeding such as this (the same being a complaint, and not an application for a certificate), to permit the establishment of another automotive freight service, or to establish a discriminatory and preferential rate schedule.

The issues, as formulated by the pleadings, may thus be summarized: (1) that the rates are discriminatory against complainants, in that they are unduly prejudicial to Lakeport and unduly preferential of Upper Lake and Kelseyville; and further, that defendant has favored certain shippers, to the prejudice of complainants; (2) that defendant has been guilty of rebating, in that he has failed to observe the published tariff rates; (3) that the Commission is without power, in this proceeding, to authorize a service by another operator, or to establish a discriminatory or preferential rate schedule for such operations; and (4) that the rates are excessive and unreasonable. In connection with the last point, we shall consider the proposed revised schedule of rates.

A public hearing was held before Examiner Austin at Lakeport, when evidence was offered, the matter was submitted, and it is now ready for decision.

We shall discuss the evidence as it relates to the principal issues raised in the complaint. Unless otherwise expressed, all rates mentioned are in cents per 100 pounds.

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Discrimination against complainants.

It is contended by complainants that the rates were unduly prejudicial against Lakeport and preferential to Upper Lake and Kelseyville. Inasmuch as Kelseyville is not served by the defendant, the rates to this point, although lower than those to Lakeport, can not be considered as prejudicial to Lakeport, since it must appear that the same carrier serves both points before the rates can be held discriminatory or prejudicial.

Defendant operates an automobile truck line between Lakeport and Hopland, a distance of 21½ miles; and also between Ukiah and Clear Lake Lodge via Upper Lake, the distance from Ukiah to Upper Lake being 25 miles and from Ukiah to Clear Lake Lodge 31 miles. Between Lakeport and Upper Lake, which are nine miles apart, defendant conducts no service. Defendant has published on building materials a rate of 25 cents from Ukiah to Upper Lake, and 40 cents from Hopland to Lakeport, excepting cement, upon which has been published a commodity rate of 25 cents. The rates to Upper Lake, defendant testified, were reduced to facilitate the reconstruction of buildings destroyed by a disastrous fire, but he admitted that they were not published until several months after the fire and that similar concessions were not accorded Lakeport upon the occasion of fires in that community.

James S. Hill, of the firm of Hills Bros., one of the complainants, testified that his firm conducts a store at Lakeport, serving generally all of the communities in Lake County, and that in so doing he meets with competition from the merchants of Upper Lake. Because of the lower rates enjoyed by the latter, Hill Bros. have been unable to meet competition, particularly on heavy materials. Substantially the same testimony was given by J. B. Levensaler, one of the complainants, who encounters similar competition, being forced to absorb the difference in freight charges in order to meet the prices of the Upper Lake merchants. Two merchants of Lakeport, called by the defendant, testified that they were not affected by this competition. It also appears that Lakeport merchants meet with competition at Ukiah, the merchants at this point, because of lower prices, being able to attract trade naturally tributary to Lakeport.

In justification of the difference in rates, defendant testified that upon the route between Hopland and Lakeport the grades were more severe and the elevation much greater than upon the road between Ukiah and Upper Lake, resulting in higher operating costs between Hopland and Lakeport. In addition a biweekly service is maintained at Upper Lake, while at Lakeport the service is conducted daily throughout the summer, and biweekly in winter.

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In view of the dissimilarity of operating conditions, and the less frequent service to Upper Lake, it can not be said that the rates to that point are unduly preferential nor discriminatory against complainants. Upon this issue we must hold that complainants have failed to make a sufficient showing. The lower rates to Ukiah are incidental to its location upon the railroad, an advantage for which defendant is not responsible.

Complainants have failed to substantiate the alleged violation of the long-and-short-haul rule. A farmer living in Scotts Valley, three miles west of Lakeport, testified that upon freight hauled from Hopland defendant charged a rate exceeding that to Lakeport, an intermediate point. However, his testimony as to specific shipments and the rates actually assessed was so uncertain that no finding of discrimination can be predicated thereon; nor does it appear that defendant had any certificate to operate beyond Lakeport over the route in question. Unless it can be shown that defendant was operating over a regular route under a certificate duly granted, we can not find there was any violation of the long-and-short-haul clause. The question of the legality of defendant's operations is not before us in this case.

Rebates.

It is charged by complainants that defendant has been guilty of rebating, in that he has failed to observe the published tariff rates. The evidence deals with but one specific instance. It appears that in August, 1925, defendant hauled a carload of cement and brick consigned by Proctor & Cleghorn of Santa Rosa to Anton & Green (one of complainants) at Lakeport under a rate less than that published in the tariff. Defendant admitted that he had hauled these commodities for others at $5 per ton and had charged Proctor & Cleghorn only $3.25 per ton, but asserted that he had endeavored to collect the difference between the charges imposed and those accruing under the tariff, introducing in support of this contention a freight bill for the undercharge which had been sent to Proctor & Cleghorn and referred by them to the consignee. Complainants have emphasized the fact that the bill was not rendered until after the institution of this proceedings, claiming that the bill was a mere subterfuge. Defendant denied that he had granted any rebates to any shippers, stating that he had charged the tariff rates, and that he had never offered to haul for any shipper at rates lower than those published in the tariffs. He also denied that he had ever predicated his freight charges upon any false billing of shipments, asserting that the weights upon which charges were based were those shown upon the railroad freight bills, defendant himself never having weighed the shipments.

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However, he has not strictly followed the tariff in respect to the class rates. At present the class rates are as follows: first class, 50 cents; second class, 48 cents; third class, 45 cents; and fourth class, 40 cents. Under the tariff previously in effect there were but two rates, viz: 40 cents and 50 cents. Under the present tariff, defendant has assessed a rate of 40 cents on all commodities taking a rate lower than 50 cents, failing to this extent to observe the second and third class rates. Although defendant has undoubtedly failed to obey the injunction of the statute, requiring a strict observance of tariff rates, it is apparent that in so doing he has accorded to all shippers equal treatment, consequently it can not be said that in following this practice there has been any moral obliquity on his part. But the lack of evil intentions will not excuse his failure to comply with the law, and in the future defendant will be required to observe the rates published in his tariff. If for any reason they are objectionable, defendant's remedy is to change the tariff, not to disregard it.

Proposed contract rates.

The complainants ask that they be authorized to enter into a contract with certain carriers, other than defendant, for the transportation of their goods at rates lower than those charged by defendant. Defendant, however, challenges the Commission's power in this proceeding to sanction such an arrangement, contending that no proper application is now before the Commission which would authorize the granting of a certificate for such a service. If complainants desire to contract with a private carrier for the transportation of their goods, no such authority is necessary (*Frost & Frost* vs. *Railroad Commission*, _____, U. S. _____; 70 Law. Ed. 682). And if it is to be assumed that complainants are seeking a certificate of public convenience and necessity for the operation of a motor truck freight service, we believe this objection is sound, since the law provides that a proper application be filed with the Commission and a fee of $50 be paid before such a certificate can be granted. (Statutes 1917, chapter 213, as amended.) This requirement certainly is not met by the mere allegation in a complaint such as this, that a contract can be made by complainants for the transportation of their goods at certain rates. Therefore, the request for authority to establish this service must be denied.

Unreasonable and excessive rates.

Upon most of the staple commodities received by complainants, defendant's rate is $8 per ton (fourth class), some commodities being assessed the first class rate of $10 per ton. The evidence shows that complainants have made substantial shipments over defendant's line from Hopland to Lakeport at the rates mentioned.

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In substantiation of the charge of unreasonableness, complainants referred to the rates formerly prevailing between Hopland and Lakeport before the era of truck transportation. In 1906 the rate was $5 per ton; about 1917 the rate on groceries was $5 per ton in the summer and $6 per ton in the winter, being advanced soon afterward to $6 and $7 per ton, in summer and winter respectively; and now the rate chiefly utilized is $8 per ton applicable throughout the year, defendant having abolished the differential between summer and winter rates about one year prior to the hearing. Formerly there were two routes between Hopland and Lakeport, viz: the Pieta toll road, which was used occasionally in winter, and the Glen-Alpine road, a free road, which was the route ordinarily followed. Both of these roads were much inferior to the present route, being almost impassable in winter, one witness stating that the present roads in winter as in better condition than the former roads in summer. At present the two towns are connected by a state highway. The round trip by horse-drawn vehicles consumed two days, while now three round trips daily can be made by truck. During the summer the teams carried an average load of three tons each, and in winter, from one to three tons, more horses being used in winter than in summer. An experienced teamster and truck operator testified that in his judgment one 1½-ton truck is equivalent to three six-horse teams, in point of efficiency. It was admitted by certain of complainants' witnesses, and shown by defendant, that operating costs have increased substantially since the days of horse-drawn vehicles.

Certain comparative rates were submitted, designed to test the reasonableness of the rates under attack. One of complainants testified that the rail rate on flour and sugar from San Francisco to Hopland, a distance of 100 miles, was $6 per ton, while between Hopland and Lakeport, a distance of 21 miles, defendant's rate was $8 per ton. But in the absence of any showing of similarity of surrounding circumstances and conditions, this comparison is of little weight. Another witness, also a complainant, testified that the rates charged by another carrier on some commodities between Hopland and Kelseyville, a distance of 26 miles, were $5 and $6 per ton, as compared with defendant's rate of $8 per ton. Because of this disparity in the rates, the merchants of Kelseyville are at a distinct advantage in competing with complainants for the trade of the territory between the two towns, the distance between them being only eight miles. This witness also stated that the combination rail and truck rate from San Francisco to Kelseyville via Hopland was about the same as the combination rate between the same points for the boat, rail and truck service via Vallejo and Calistoga. However, the truck service to Kelseyville is less frequent than defendant's schedules, due apparently to the

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competition between the two lines. Here again, complainants have failed to point out any similarity of surrounding transportation circumstances and conditions. In submitting rate comparisons, it was incumbent upon complainants to show that they were a fair measure of the reasonableness of the rates in issue.

The truck operator with whom complainants proposed to contract for hauling their goods from Hopland, at a rate of $5 per ton in summer and $6 per ton in winter, estimated his operating costs to be $3.85 per ton, assuming that he will carry an average paying load of 4 tons per truck, which assumption was based upon a statement alleged to have been made by defendant, who later denied having done so, stating that his average load did not exceed 2½ tons per trip. An analysis of his costs indicates that his allowance for depreciation is low, ordinary repairs having been included in this item, consequently his costs will be somewhat higher, but to what extent can not be determined from the record.

Three of the complainants, Messrs. Anton, Hill and Levensaler, testified that in their judgment defendant's rates were too high, Messrs. Anton and Hill basing their opinions on the cost of operating their own trucks, while Mr. Levensaler relied upon the opinion of other truckmen, as well as on the lower rates accorded to the neighboring communities of Kelseyville and Upper Lake. It does not appear that their private truck operations are fairly comparable with those of defendant, since they are not obliged to follow a regular schedule, nor hire drivers specially for this purpose. As we have stated, complainants failed to show that the Kelseyville rate was a fair standard of the reasonableness of the Hopland rate; and as to Upper Lake, defendant justified the lower rates. One shipper called by complainants, and four called by defendant, expressed satisfaction with defendant's rates and service. Two of the latter apparently believed that the rates were established by the Commission itself, this circumstance evidently influencing their judgment. This, of course, is not true, the rates having been voluntarily made by defendant who has published and filed them with the Commission.

Defendant testified that his total investment is $65,000, including equipment and land and warehouses in Lakeport, Clear Lake Beach and Upper Lake. He has seven trucks, three of which are used in the Hopland-Lakeport service and one in the Ukiah-Upper Lake-Clear Lake Beach service, leaving three available for other work, such as hauling fruit during the summer. Only the total valuation was shown, no attempt being made to state the value of the separate items. He has shown the revenues and expenses incident to the operation of the Hopland-Lakeport service, but not for his operations as a whole, nor has there been any allocation of costs between the Hopland-Lakeport

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or the Ukiah-Upper Lake routes. Necessarily, in the absence of such a showing, the estimate submitted as to the total value of both operative rights, can be of little value in the proceeding as a basis for measuring the reasonableness of defendant's rates.

Upon the assumption that the freight handled over the Hopland line has averaged 2½ tons per day, and that three trucks are necessarily used in this service (one for the main line haul, another for emergencies, and a third for handling local deliveries in Lakeport), defendant thus summarizes the result of operations of this service for the years 1924 and 1925:

	1924		*1925*
Gross revenue	$7,589.22		$8,565.00
Fixed expenses	$3,790.52	$4,340.30	
Operating expenses	3,188.76	3,291.35	
Total expenses	6,979.28		7,631.65
Profit	$609.94		$933.35

The details of the expenses incurred in 1924 (none were submitted for 1925) show that the fixed expenses, including insurance, cost of tires, garage rent, depreciation, and interest on equipment, are based on the use of three trucks in this service, allowance being made for use of the extra and delivery trucks during one-half the time in other service, an allocation of equipment which appears to be fair. Even allowing for the deduction of the item of interest on trucks, amounting to $523, it can not be said that defendant's return was excessive.

Very little was said about the proposed schedule of revised rates pleaded in the answer. Defendant stated that he planned to reduce the rates on certain heavy commodities, but the proposed tariff was not offered in evidence.

Under the circumstances we can not find the rates in question to be unreasonable or excessive.

Upon consideration of all the facts of record, we are of the opinion and find as facts:

(1) That the rates assessed, charged and collected by defendant for the transportation of the commodities described in the complaint are neither unjust, unreasonable nor excessive;

(2) That said rates assessed, charged and collected by defendant for the transportation of said commodities between Hopland and Lakeport are not unduly prejudicial to nor discriminatory against complainants, nor unduly preferential to the merchants or community of Upper Lake, to the extent that they exceed the rates contemporaneously maintained by defendant for the transportation of said commodities between Ukiah and Upper Lake, or to any extent whatever.

An order will be entered dismissing the complaint.

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ORDER.

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the interested parties, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the preceding opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the complaint in the within entitled proceeding be and the same is hereby dismissed.

It is further ordered, the effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this twentieth day of December, 1926.

DECISION No. 17792.

IN THE MATTER OF THE APPLICATION OF TIDEWATER SOUTHERN RAILWAY COMPANY AND CENTRAL CALIFORNIA TRACTION COMPANY TO MAKE CERTAIN CHANGES IN JOINT RATES BETWEEN POINTS ON THEIR RESPECTIVE LINES.

Application No. 13248.

Decided December 21, 1926.

RATES—JOINT—RAILROAD—TO REVISE.—Application granted.

James S. Moore, Jr., for Tidewater Southern Railway Company.
W. P. Jennings and *F. L. Carsner*, for Central California Traction Company.

BY THE COMMISSION.

OPINION.

This is an application filed jointly by Central California Traction Company and Tidewater Southern Railway Company for permission to cancel joint rates, rules and regulations published in Central California Traction Company's Tariff No. 10, C. R. C. 24, also supplements 1, 2, 4 and 5 thereto, and to publish and maintain in lieu thereof a tariff designated as Tidewater Southern Railway Company's Joint Freight Tariff G. F. D. No. 100, as per a proof copy of same marked Exhibit "A" attached to and made a part of the application. The proposed tariff contains rates, rules and regulations for the transportation of freight between Sacramento, Lodi, Sheldon and intermediate points on the line of Central California Traction Company on the one hand and on the other, Manteca, Turlock, Modesto, Hilmar and intermediate points on the line of Tidewater Southern Railway Company.

The proposed rates, rules and regulations as set forth in Exhibit "A" and as amended will result in both increases and reductions in the present rates.

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A public hearing was held before Examiner Geary at San Francisco December 2, 1926, and the application having been duly submitted is now ready for our opinion and order.

A number of the points served by applicant are also served by the Southern Pacific Company and subsequent to August 26, 1920, the rates published in tariffs of the Southern Pacific Company have been, in most cases, higher than those shown in Tariff C. R. C. No. 24 from and to the common points. The proposed rates will be equal to and harmonize with those now in effect via Southern Pacific Company direct.

This Commission, in Decision No. 7983, August 17, 1920, authorized effective August 26, 1920, practically all steam and electric rail carriers to increase intrastate freight rates, including switching and special charges, 25 per cent. The rates for interstate transportation in the territory known as the Mountain-Pacific Group were likewise increased 25 per cent August 26, 1920, in accordance with *Ex parte No. 74*, decided by the Interstate Commerce Commission July 29, 1920, 58 I. C. C. 220.

This Commission also issued informal authority, dated October 14, 1920, in compliance with a 63d section application of J. C. Stone, traffic manager Central California Traction Company, to increase the freight rates to the basis authorized in Decision No. 7983, but applicant's tariff was never amended as provided for in the decision.

Witness for the applicant submitted a statement showing tonnage moved on the joint rates during the period September 1, 1925, to and including August 31, 1926. This statement shows that the southbound tonnage to points on the Tidewater Southern Railway consisted of nine carloads, total weight 148.2 tons, and the northbound tonnage to points on the Central California Traction Company of four carloads weighing 107.2 tons. The less-than-carload shipments southbound weighed 26½ tons, and the northbound movement weighed 4.3 tons; total tonnage for the year 286.9 tons, the gross revenue being less than $1,000. A witness testified further that the applicant carriers' earnings were materially below 5¾ per cent, the rate of interest fixed by the Interstate Commerce Commission as a reasonable return.

There were no appearances in opposition, although shippers were notified of the hearing. A witness for the applicant testified that interested shippers at Sacramento, Lodi and Modesto had been interviewed in connection with the adjustment sought and no objections were offered.

Upon consideration of all the facts of record, we find that applicant's present rates for the transportation of freight shown in Central California Company's Tariff No. 10, C. R. C. 24 and supplements

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thereto, are unjust and unreasonable; that the just and reasonable rates are those shown in Exhibit "A" attached to and made a part of the application and as amended.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order and which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the applicants, Tidewater Southern Railway Company and Central California Traction Company, be and they are hereby authorized to publish and file in a tariff designated as Tidewater Southern Railway Company's Joint Freight Tariff G. F. D. No. 100, the rates, rules and regulations shown in Exhibit "A" attached to the application and as subsequently amended.

Dated at San Francisco, California, this twenty-first day of December, 1926.

DECISION NO. 17793.

MILTON A. SMITH REALTY COMPANY, INCORPORATED, A CORPORATION.

vs.

SAN DIEGUITO WATER COMPANY, A CORPORATION,

Case No. 2059.

Decided December 21, 1926.

COMMISSION'S JURISDICTION—WATER UTILITY—IRRIGATION SERVICE—DEDICATION.—Finding that defendant is a public utility water company subject to the jurisdiction of the Railroad Commission, it is also found that defendant has not dedicated its property to service of the land involved in the complaint.

Clay Carpenter, for Complainants.

O'Melveny, Millikin, Tuller and Macneil, by *William W. Clary* and *Henry J. Stevens*, for Defendant.

Wright and McKee, by *Leroy A. Wright*, for Santa Fe Irrigation District, Intervener.

T. J. Reynolds, for Del Mar Water, Light and Power Company, Intervener.

S. J. Higgins, City Attorney, and F. M. Downer, Deputy City Attorney, for City of San Diego.

W. A. Sloane, for San Dieguito Irrigation District.

BY THE COMMISSION.

OPINION.

The complaint herein alleges that complainant is the owner of 850 acres of irrigable agricultural land in San Diego County, which land is alleged to be under the irrigation water system installed and maintained by defendant, whose conduit runs through complainant's land. The pleadings include an answer to the original complaint, an amended complaint, a document containing objections to said amended com-

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plaint, an amended answer, and certain pleadings in intervention on the part of the Del Mar Water, Light and Power Company and the Santa Fe Irrigation District. Without outlining *in extenso* the allegations, denials and contentions contained in these numerous pleadings, suffice it to say that the issues raised are as follows:

1. Is the defendant—a corporation organized under the laws of the state of Nevada—a public utility corporation in the sense that its waters, or any of them, have been dedicated to public use?

2. If there has been such a dedication, do the lands of this complainant fall within the area as to which service may reasonably and lawfully be required?

3. If there has been such a dedication and the lands of complainant fall within the "area of dedication," has the defendant such a supply of water, or could it reasonably develop such a supply as to allow for service upon complainant's lands?

Public hearings in this matter were held before Commissioners Squires and Seavey and Examiner Satterwhite in San Diego and Los Angeles. Later, hearings were held before Commissioners Decoto, Seavey and Whitsell in San Diego, and a final hearing, for the purpose of listening to argument, was held before the Commission *en banc* at San Francisco. A very large body of testimony was produced at these several hearings by all parties to this proceeding, and numerous exhibits were filed covering every possible phase of the history of this company which might possibly concern the question of any duty on its part to serve the public as a public utility water company. It was the position of the company throughout these proceedings that it has never dedicated or devoted its properties, or any of them, to public use; that in any event the lands of this complainant can not reasonably be considered to be within any presumed area of dedication, and that the water supply now owned or available to defendant through reasonable development or operation is insufficient to allow for service to complainant's lands.

History of San Dieguito Water Project.

In view of the importance of the matters herein under consideration, we deem it proper to trace in some detail the history of this defendant and its predecessors, before announcing our conclusions upon the issues above enumerated.

It appears from the testimony before us that bordering on the lower portion of the San Dieguito River and about ten miles from the coast in San Diego County there lies a tract of approximately 9000 acres, originally known as the San Dieguito Rancho and Grant. Prior to the year 1907 title to this rancho became vested in the Santa Fe Land Improvement Company, a corporation, subsidiary to The Atchison, Topeka and Santa Fe Railway Company, the tract being thereafter

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variously known as the "San Dieguito Ranch," and at the present time the "Rancho Santa Fe." On June 13, 1907, the Santa Fe Land Improvement Company posted a notice of appropriation covering 1200 miner's inches, measured under a 4-inch pressure, of the waters of the Bernardo and San Dieguito rivers, the purpose being for irrigation, domestic and live stock uses upon the San Dieguito Rancho.

Between the said rancho and the ocean lies another tract of land, approximating 1500 acres, adjacent to, but not bordering upon, the San Dieguito River, which was controlled by a syndicate, composed of Wm. G. Henshaw, Payne Whitney and Harry Payne Whitney, each holding equal shares. This tract was known as the Henshaw-Whitney Syndicate Lands, and for some years was in charge of one Ed Fletcher at San Diego, as agent for the owners, in leasing and developing this land.

On February 21, 1914, one H. Taylor, son-in-law of said Fletcher, posted a notice of appropriation, claiming 10,000 inches measured under a 4-inch pressure, in the channel of the San Dieguito River, to be used upon the "Bernardo Rancho," San Dieguito Rancho, Agua Hedionda Rancho and Los Penasguitos Rancho, on lands included in the Linda Vista Irrigation District; on lands in the city of San Diego, and on lands in fractional townships described as follows:

Township 12 south, range 4 west; township 13 south, range 4 west; township 14 south, range 3 west; and township 14 south, range 2 west, San Bernardino Meridian.

The rights covered by this appropriation were assigned to Fletcher on February 25, 1914.

It appears that both the Syndicate and the Land Company were desirous of developing water for their lands, but that the Land Company deemed that its water was insufficient and that the Syndicate did not desire to expend sufficient capital to develop the water properly. An agreement was accordingly entered into between these parties looking toward the construction of certain dams, reservoirs, pumping plants and distributing systems—

> For the purpose of securing such supply of water, of constructing the aforesaid works and thereafter distributing the water *to the land above mentioned*, the parties hereto have caused the incorporation and organization of a corporation under the laws of the State of California, known as the San Dieguito Mutual Water Company (hereinafter called the "Water Company"), and have agreed to convey to said Water Company, water, water rights, dams and reservoir sites and all necessary rights of way for the development, collection, storage and distribution of water *for the irrigation of the lands above mentioned*, so far as such rights of way lie upon the lands of either of the parties hereto; and conditioned upon the execution of and full compliance with this agreement by the second party, the Land Company has made an agreement with the Water Company, of even date herewith, whereby the Water Company is enabled to construct the aforesaid work. (Italics ours.)

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In this agreement it was provided that all waters, water rights, dams and reservoir sites of both parties should be transferred to said San Dieguito Mutual Water Company, when organized, and that the Land Company would advance the necessary moneys up to $750,000 to construct the necessary works, the Land Company to hold the whole of the capital stock of the Water Company except the five qualifying shares. After reimbursement of the Land Company and with the exception of the said qualifying shares, it was provided that 35 per cent of the stock should be owned and held by the Syndicate, and 65 per cent by the Santa Fe Land Improvement Company.

The San Dieguito Mutual Water Company was thereupon incorporated for three million dollars, divided into twenty thousand shares of $150 par value. The incorporators and original directors, each taking one share of the stock, were E. O. Faulkner, W. E. Hodges, S. C. Payson, Wm. G. Henshaw and Ed Fletcher, the first three representing the Land Company, and the latter two representing Henshaw and his associates. The Land Company then entered into an agreement with the Mutual Water Company to advance moneys necessary to accomplish the construction of the contemplated works, the Water Company agreeing to sell all of its capital stock, except its five directors' shares, to the Land Company for such advanced moneys. Ed Fletcher then assigned to the Water Company his right, title and interest in the Taylor water appropriation.

The San Dieguito Mutual Water Company thus came into possession of all the water, water rights, dam and reservoir sites of both the Land Company and the Henshaw Syndicate on the San Dieguito River. Construction of the main impounding reservoir (Lake Hodges) was commenced in the spring of 1917, about five miles northeasterly from the complainant's lands. It was completed in January, 1919.

The uncontradicted evidence before us shows that under the agreements above mentioned the desire and purpose of the parties constructing this reservoir was to bring sufficient water to their respective lands —to develop them without any dedication of said water to public use. This was to be accomplished through the Mutual Water Company, shares of stock in which were to be sold to purchasers of land from these two parties.

There was already in existence in this general vicinity a small irrigation district composed of about 600 acres of land along the ocean front west of the San Dieguito Ranch and north of the Syndicate lands known as the Cardiff Irrigation District. For the purpose of enlarging this district a plan was evolved to take over the whole Henshaw Land Company project, and in order to raise sufficient funds for this purpose, proceedings were begun to enlarge the irrigation district's bounds to include both the San Dieguito Ranch and the Syndicate

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Lands. As this plan would also accomplish the end sought by the original projectors, they assented to the proposal, and for some time made no effort to sell any shares of stock of the Mutual Water Company. Litigation held up the enlargement of the district's boundaries, however, and all plans were held in abeyance for some time. In February, 1924, however, the District Court of Appeal declared the enlargement proceedings invalid. (*People* vs. *Cardiff Irrigation District,* 51 Cal. App. 307.)

It also appears from the decision of the California Supreme Court in the case of *Del Mar Water, Light and Power Co.* vs. *Eshleman,* 167 Cal. 663, that in 1908 the South Coast Land Company, a corporation owning a townsite known as Del Mar, and certain other neighboring real estate, had contracted with the Santa Fe Land Improvement Company to lease from the latter certain water-bearing lands on the San Dieguito Ranch for the production of a maximum of fifty miner's inches per day for the lessee, or 50,000 gallons per day for use on the San Dieguito Ranch. Certain waters were also to be delivered by the lessee to The Atchison, Topeka and Santa Fe Railway Company at Del Mar. The Del Mar Water, Light and Power Company was formed as a subsidiary of this lessee to supply water, light and power to purchasers of land from the South Coast Land Company. The lease was then assigned to the new corporation. Wells were sunk and a distributing system was constructed, leading from the leased lands which were riparian to the San Dieguito River and below the site of the then nonexistent Lake Hodges in 1917. In order to cover this particular water development an agreement was entered into whereby the South Coast Land Company consented to the construction and maintenance of a dam and the perpetual collection, impounding and diversion of all water of the river in the resulting reservoir, it being provided that the contemplated Mutual Water Company would execute a contract granting the South Coast Company a 5-year option to purchase a sufficient number of shares of stock to entitle it to 50 miner's inches of such impounded water.

The Cardiff Irrigation plan having failed, a new contract was entered into between the Del Mar Water, Light and Power Company and the Santa Fe Land Improvement Company, reciting that the water company "as a private corporation and not as a public utility," supplies water in the town of Del Mar, and that the Land Company "is not engaged in, and does not intend to engage in, the distribution or delivery of water to the public, or any portion thereof, or to any municipality, district, region, or neighborhood; and has not, and does not intend to, set aside, appropriate or dedicate any water to which it is entitled or has the right or owns for sale, rental or distribution to the public"; but that it has the right to receive a certain quantity of

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water from the Mutual Company's system in excess of its own needs and solely to enable the Water Company to continue supplying its consumers during temporary repairs of its lands, the Land Company would permit it to use this surplus on stated terms. Pipe lines were to be built to carry such water and 10 cents per 1000 gallons was to be paid to the Land Company. It was provided that this was strictly a temporary arrangement which either party might terminate by giving stated notice.

The testimony before us indicates, and the contract itself shows, that this agreement was intended by the parties to take care of a temporary situation at Del Mar, and it was in no sense the intent of any of the parties to take the place of the contract of the Del Mar Company with Henshaw to obtain 50 inches of water for the purchase of the Mutual Water Company's stock.

Lake Hodges dam being completed and water having accumulated behind it since the Cardiff Irrigation District proceedings were pending in the court, the Mutual Water Company found itself with a large supply of water to dispose of but with no inclination to sell stock. The policy was then adopted of putting the water to use on the San Dieguito Rancho and upon the Syndicate Lands, the tenants of the latter being allowed to purchase water through the Land Improvement Company in its own name.

In the year 1920 the city of San Diego was confronted with a water shortage, and it executed a contract with Henshaw and Fletcher, above mentioned, whereby the latter obligated themselves to construct certain pipe lines and to deliver to the city, for the period of ten years, three million gallons of water daily at the rate of 10 cents per 1000 gallons. Henshaw and Fletcher then contracted to purchase from the Santa Fe Land Improvement Company the same amount of water for the same term at the rate of 8 cents per 1000 gallons. These contracts contained express provisions that the waters were not, and are not, intended to be dedicated to any public use, but that the agreements were meant solely for the purpose of relieving a temporary shortage in San Diego. These contracts have been assigned to the present defendant, and water is still being supplied to the city of San Diego under them.

After the Cardiff Irrigation District had been declared void a new plan had to be evolved for the disposition of the waters of Lake Hodges. The plan of selling stock in the Mutual Water Company had been abandoned because it was found that the price per share necessary to be charged in order to get back the investment rendered the plan impracticable, and therefore it was determined by the various parties in interest to organize separate irrigation districts to purchase and distribute the water.

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In consummation of this final plan the San Dieguito Irrigation District, comprising the lands then in the former Cardiff Irrigation District, together with some contiguous land, was organized in 1922, and the Santa Fe Land Improvement Company agreed, in March, 1923, to sell to said newly organized district until September 30, 1950, an amount of water not in excess of 3200 acre-feet, delivered at the distributing reservoir on the San Dieguito Ranch. In February, 1923, the Santa Fe Irrigation District, comprising approximately three-fourths of the San Dieguito Ranch and all of the Henshaw-Whitney Syndicate Lands, together with certain smaller adjacent tracts, was organized, and an agreement was entered into with the Santa Fe Land Improvement Company for the sale and purchase, until July 1, 1952, of an amount of water not in excess of 6576 acre-feet delivered at certain stipulated points. These two agreements respectively disclaim all intention of dedication of these waters, or any of them, to public use or sale, and they have since been assigned by the Santa Fe Land Improvement Company to the present defendant, which is now supplying these irrigation districts in accordance with their terms.

The situation in 1923 was, therefore, that the Santa Fe Land Improvement Company, sole stockholder of the San Dieguito Mutual Water Company (Henshaw having, in 1922, sold all his interest in the Mutual Company to the Land Improvement Company), was supplying water under the two contracts with these irrigation districts, and also other water, as follows:

To Del Mar Water, Light and Power Company, 724 acre-feet.
To Henshaw and Fletcher, 3,000,000 gallons daily.

It appears also that an already existing corporation known as the San Diego County Water Company, owned by Henshaw, controlled certain valuable property and water rights upon the upper reaches of the San Diego River above Lake Hodges. This company had for a time held an option upon all the Lake Hodges properties owned by the San Dieguito Mutual Water Company and the San Dieguito Water Company, the present defendants, was organized during the year 1924 under the laws of Nevada for the purpose of taking over all of these properties.

On July 25, 1924, the San Dieguito Mutual Water Company and said San Dieguito Water Company filed a joint application with this Commission (Application No. 10318) praying for an order of this Commission authorizing and permitting the sale and transfer of all the properties of the former to the latter, and in which both parties disclaimed any public utility status, and stated that the application was made only through precaution, and that by making it, neither admitted

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or conceded that the properties were impressed with a public use, or that the Commission had any jurisdiction with respect to them.

Subsequently, an agreement was entered into between the Santa Fe Land Improvement Company and the San Dieguito Water Company, whereby the former agreed to the proposed purchase by the latter of all the properties of the San Dieguito Mutual Water Company, and which agreement contained the following recital:

> First party hereby represents and agrees that no other person or persons are entitled to receive water from the properties transferred by San Dieguito Mutual Water Company to second party, save and except:
> (a) Santa Fe Irrigation District;
> (b) San Dieguito Irrigation District;
> (c) Del Mar Light, Water and Power Company; and
> (d) Assigns of the so-called Fletcher-Henshaw contract.
> First party represents and agrees that said Del Mar Light, Water and Power Company is not entitled to receive more than seven hundred twenty-five (725) acre-feet of water per annum from said properties, which amount, however, is subject to reduction in years of drought to the same extent that the rights of San Dieguito Irrigation District and Santa Fe Irrigation District to deliveries of water, are subject to reduction during such periods of drought.

And on July 26, 1924, the Santa Fe Land Improvement Company assigned to the San Dieguito Water Company all of its right, title and interest in and to the four water contracts above described, and Henshaw and Fletcher assigned all their right, title and interest in and to the contract between themselves and the city of San Diego to the San Diego County Water Company, which in turn assigned the same to the present defendant.

On order of this Commission (Decision No. 13857) dated July 31, 1924, the sale of the properties of the San Dieguito Mutual Water Company to the San Dieguito Water Company as requested in said Application No. 10318 was approved and authorized, and a deed dated July 1, 1924, covering the entire transfer was later submitted and approved.

In June, 1925, San Dieguito Water Company and the Del Mar Water, Light and Power Company entered into a contract whereby the former agreed to sell to the latter an amount of water not to exceed 720 acre-feet per year from November 1, 1924, to October 31, 1957, to be delivered at a point to be agreed upon by the parties. From the record it appears that this contract was entered into for the purpose of reflecting the arrangement which was agreed upon at this time to supersede and to carry out the two prior contracts that had been entered into between the Del Mar Water Company and Henshaw concerning riparian rights, and between the Del Mar Water Company and the Santa Fe Land Improvement Company concerning a temporary supply during repair and enlargement of the Del Mar system. It is under this contract that defendant, San Dieguito Water Company, is

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now supplying water to the Del Mar Water, Light and Power Company.

Thus far we have traced a complete chronological history of the development and operation of this water system as disclosed by the record now before us, and, except for the few facts taken from the Supreme Court's opinion above referred to relative to the Del Mar Water, Light and Power Company, it is based on the uncontradicted oral and documentary evidence introduced herein.

It seems evident that at all times this defendant and its predecessors in interest have not only disclaimed any intent to dedicate these properties or waters to the lands covered in this complaint, but that their acts have been uniformly consistent with such expressed lack of intent. We should add that at no time has water been sold or delivered to plaintiff or any of its predecessors in interest upon any of the lands covered by this complaint.

At the conclusion of the preliminary hearings had herein, it was agreed that the Commission would consider the question of jurisdiction and dedication, and that if it came to the conclusion that there was probable cause upon any ground to take jurisdiction over this matter, it would set the case for further hearing. A thorough and careful consideration of the facts then before the Commission, as outlined above, lead us to the conclusion that no evidence had, up to that time, been introduced in this proceeding upon which could be predicated a determination that this defendant or its predecessors in interest had at any time dedicated their waters to public use, and particularly to the lands covered in the present complaint. It was the Commission's position, however, that probable cause existed for it to take jurisdiction over this matter for these and certain other reasons, and the case was, therefore, set for further hearing.

At said further hearing a statement was read by the presiding commissioner declaring it to be the sense of the Commission that while the record then before us did not disclose substantial evidence showing a dedication of its water and water system to public use under the generally accepted significance of that term, it was forced, nevertheless, under subsection (*dd*) of section 2 of the Public Utilities Act, to assume jurisdiction and to set this matter for further hearing, since the evidence disclosed sales of water both directly to the Del Mar Water, Light and Power Company serving public utility consumers and others of the public in the town of Del Mar, and also sales indirectly to the city of San Diego, which resold to its own citizens within its limits. Additional hearings were had in San Diego, and the matter was argued before the Commission *en banc*.

At these hearings the position was taken by the defendant that the subsection above mentioned did not apply to its operations; that if it

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did apply, it is unconstitutional; and further, that in any event, its application could not be extended to predicate a dedication of these waters or any of them to the lands mentioned in this complaint. It was the further position of the defendant that its water supply, both present and potential, is insufficient to allow it to render service to the lands mentioned in this complaint in addition to the other lands to be served under the contracts for water service above mentioned.

Testimony was introduced in an effort to substantiate this claim. The plaintiff did not appear and argue orally at the time of the argument *en banc*, but the defendant, together with certain other persons, appeared and argued orally to the effect mentioned above. A petition on the part of R. G. Townsend and C. W. L'Ecluse was presented to the Commission before the time of oral argument, but upon motion of defendants, the Commission ruled that it could not be received at that time.

The principal points made by defendants at the time of the oral argument were, first, assuming that the sales to San Diego and to the town of Del Mar through the city of San Diego and the Del Mar Company, constituted a dedication to public use under subsection (*dd*), nevertheless, the plaintiff's land is not within the scope of said dedication, and plaintiff's lands are, therefore, not entitled to water supply; and, secondly, that assuming that San Dieguito Water Company is in fact operating a public utility, it can not be required to take on such new consumers as would be the result of an order requiring service to plaintiff's lands, because so doing would injuriously withdraw the water supply to its present consumers. A third point discussed by defendant was that the Supreme Court of California has, in effect, already construed the subsection above mentioned to apply only to properties which in fact have been dedicated to develop a public use at the time of the sale covered in said subsection. The argument was reiterated that the properties of the San Dieguito Water Company have never been dedicated to public use.

Upon further consideration of the testimony adduced in this matter, we must adhere to our former conclusion that no substantial testimony has been adduced herein upon which we could reach a conclusion that the properties of this utility have been dedicated to public use, unless such dedication is imputed under the provisions of subsection (*dd*), section 2 of the Public Utilities Act. We are, however, of the opinion that if this provision of the Public Utilities Act is to be given any meaning whatsoever, we must hold that the defendant company is a public utility under said section, although upon the record before us we believe it evident that there has been no dedication of water service by defendant to lands of this plaintiff, and that the plaintiff is, therefore, not entitled to an order directing the service requested herein.

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It thus becomes unnecessary for us to discuss the question of water supply at this time. We must, therefore, dismiss this complaint.

ORDER.

Complaint having been made, as above entitled, against San Dieguito Water Company asking for an order of this Commission requiring said company to render public utility water service to certain lands mentioned in said complaint, hearings having been held, arguments having been heard, and the Commission being now fully advised in the premises:

It is hereby found as a fact that the defendant, San Dieguito Water Company, is operating a public utility water company in this state under the definition of that term as expressed in section 2, subsections (*w*), (*x*), and (*dd*) of the Public Utilities Act; and

It is hereby further found as a fact that said company has not dedicated its properties so used, nor its water service to the lands covered in the within complaint, or any of them, and basing its order upon the said findings of fact, and upon such other findings of fact as are contained in the opinion preceding this order;

It is hereby ordered, that the complaint herein be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-first day of December, 1926.

DECISION No. 17794.

IN THE MATTER OF THE APPLICATION OF THE CITY OF MARYSVILLE, A MUNICIPAL CORPORATION, THAT THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA FIX AND DETERMINE THE JUST COMPENSATION TO BE PAID BY THE SAID CITY OF MARYSVILLE FOR THE WATER SYSTEM OF THE MARYSVILLE WATER COMPANY, A CORPORATION.

Application No. 10302.

Decided December 21, 1926.

VALUATION—JUST COMPENSATION—WATER UTILITY.—It is found that the just compensation that should be paid by the city of Marysville for the wells, water supply and property of Marysville Water Company is $372,400, the same including $15,000 for materials and supplies on hand, as of July 1, 1924.

W. P. Rich, A. M. Bundy, for the city of Marysville.

Richard Belcher and *Devlin and Brookman,* by *Douglas Brookman,* for Marysville Water Company.

E. DeLos Magee, for California Safe Deposit and Trust Company.

BY THE COMMISSION.

OPINION.

This is a proceeding upon petition under section 47 (*b*) of the Public Utilities Act in which this Commission is asked to fix the just

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compensation to be paid by petitioner, the city of Marysville, a municipal corporation, hereinafter referred to as the city, to the Marysville Water Company, a public utility corporation, hereinafter referred to as the company, for all of the lands, properties and rights of said company used for the production and distribution of water for domestic, commercial, municipal and other purposes in and about said city of Marysville.

This petition was filed on July 21, 1924, and is a petition of the second class under the statutory provision above mentioned. At the hearing upon the order to show cause herein, the company objected to the prayer for an alternative valuation of said properties with and without a certain building, and the petition was amended to include all properties of this company, as above stated, it being stipulated that said amendment should be deemed to have been made as of the original filing date. The value of these properties is therefore to be fixed as of July 21, 1924, and will be found, pursuant to the statute, in a single sum, said sum to represent all elements properly cognizable and legally to be included therein.

A series of public hearings were held before Examiner Wheat both at Marysville and San Francisco, at which testimony was introduced by the city, the company and the Commission's engineering staff. Complete valuation reports covering the company's properties, as well as testimony concerning certain intangible values, were presented for the company by Otto Von Geldern, C. E. Grunsky, and Edward Von Geldern, consulting engineers. Phil J. Divver, Jr., city assessor of Marysville, also appeared as a witness for the company. N. Randall Ellis, consulting engineer, testified for the city of Marysville, and Wm. Stava and M. I. Reed, hydraulic engineers; E. P. McAuliffe, land expert, and Paul Thelen, engineer, appeared and testified on behalf of the Commission's staff.

The properties herein to be valued comprise, in general, the complete water producing and distributing system of this company. They include certain wells and pumps, a brick building, combining the functions of office building and tank structure, a large flat storage tank resting upon said building, certain land and the distributing pipes, services and meters used to carry the water to the premises of the company's consumers. By arrangement between the engineers representing the city, the company, and the Commission, the several reports of value were based upon a common and agreed inventory, and upon a construction and pricing period of two years immediately preceding July 21, 1924, which period was adopted by the engineers as the most reasonable period to be used for the determination of the cost to reproduce new the properties of the company. This two-year period will be accepted by the Commission, and will be used as the basis for the finding of value hereinafter contained.

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General Testimony as to Reproduction Costs.

Otto Von Geldern, for the company, testified that, in his opinion, the reproduction cost new, less accrued depreciation, exclusive of paving over mains uncut by the company, totals the sum of $500,020, which amount includes $420,020 for lands and physical properties, $60,000 for water rights and $20,000 for going concern value. The reproduction cost new, less accrued depreciation, as presented by the engineers for the Commission amounted to a total of $328,422, which includes no allowance for water rights, going concern value or development costs, as well as no allowance for cutting and replacing paving over mains and services not actually disturbed by the company. The last item, however, was estimated by the Commission's engineers to amount to $40,000 in case allowance should be made for this item by the Commission.

N. Randall Ellis, for the city, accepted the estimate of reproduction cost new less depreciation as presented in the report of the engineers for the Commission, including the lands, but exclusive of paving over mains and services not cut by the company. He deducted therefrom, however, the sum of $25,000 to cover functional depreciation, mainly obsolescence, leaving a total of $303,422. According to the city this amount includes what it believes to be reasonable allowances for intangible values such as going concern value and development costs, it being further claimed that the company is not entitled to any especial amount to cover claimed values for water rights in connection with its underground sources.

Phil J. Divver, Jr., the city assessor of Marysville, testified on behalf of the company that the present assessed valuation of the properties of the company for taxation purposes as now used was prepared for and at the request of the city of Marysville by one James G. Stafford, a valuation expert on properties for tax assessment, and amounts to $318,434. It is the contention of the company that as this valuation is placed upon its properties by the city itself, the city can not in fairness at this time claim a lesser value. It seems evident, however, that estimates of this character can not be given any great weight in proceedings for the purposes mentioned in the statute under which this petition was filed—particularly when, as here, the person who actually made the appraisal is not produced for examination and cross-examination as to the methods followed and items included in his appraisal.

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The following presents a table showing the totals found by the various witnesses upon the main items of value here in question:

Reproduction Cost Depreciated.

	Reed, Stava, McAuliffe	Ellis	Von Geldern, Grunsky	Divver
Land	$69,000	$69,000	$72,000	------
Physical property	242,376	242,376	332,786	$318,434
Paving cut by company	350	350	234	------
Totals	$311,726	$311,726	$405,020	$318,434
General equipment subject to adjustment	$16,696	$16,696	$15,000	------
Water rights	------	------	60,000	------
Going concern	------	------	20,000	------
Paving not cut by company	40,000			
Suggested deductions:				
Thelen (to be mentioned later)				$9,655
Ellis				25,000

By reason of the fact that the various engineers pursued slightly different methods in the grouping of certain classes of property and equipment, as well as in the treatment of allowances for overhead costs, it has been necessary to rearrange the figures presented in the exhibits as filed in order to give a reasonably accurate basis for comparison upon the main classifications of physical property. This has been done in the following table:

Item.	Reproduction Cost O. H. C. R. C. Engineers Stava, Reed, McAuliffe	Reproduction Cost O. H. Company Engineer Von Geldern	Reproduction Cost O. H. Less Accrued Depreciation C. R. C. Engineers Stava, Reed, McAuliffe	Reproduction Cost O. H. Less Accrued Depreciation Company Engineer Von Geldern
Landed capital	$69,000	$72,000	$69,000	$72,000
Non-landed capital—				
1. Organization expense	$5,350	(Included in overhead)	$5,350	(Included in overhead)
2. Buildings	93,953	$104,827	49,014	$75,785
3. Wells	25,730	25,913	17,857	23,886
4. Pumping equipment and intake connections	46,734	44,321	28,097	29,470
5. Distribution system	157,200	183,735	105,347	144,686
6. Tanks	17,021	22,488	8,511	11,828
7. Services	31,981	61,070	23,986	41,605
8. Meters	5,619	5,439	4,214	4,079
9. Paving cut by company	350	234	350	234
10. Miscellaneous not assignable	------	------	------	1,447
Total non-landed capital	$383,938	$448,027	$242,726	$333,020
Total landed and non-landed capital	$452,938	$520,027	$311,726	$405,020
Paving not cut by company	$40,000	------	$40,000	------
General equipment subject to adjustment at time of transfer	$16,696	$15,000	$16,696	$15,000

NOTE.—Taxes and interest during construction are included in all items.

From the figures above set forth, it will be seen that between the engineers for the company and those for the Commission there is a difference of opinion in the amount of $64,089 upon the question of

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the total cost to reproduce new the physical properties, exclusive of paving over mains and services not cut by the company, and a difference of $90,294 in the respective totals of reproduction cost new less depreciation. From the evidence before us it appears that the principal reason for the difference in the figures of reproduction cost new may be attributed to the difference in the methods used in pricing materials and in the theories of construction and installation of plant and equipment which were followed. In determining the unit costs the Commission's engineers used prices based upon the assumption that the materials and supplies for the entire project would be purchased in the open market in such quantities as to reflect to the best advantage of the buyer, such prices being fixed upon a weighted time average of the various prices in effect throughout the two-year construction period, together with the further assumption that the labor cost of the installation and construction would be determined upon the adoption of a plan of organization such that the construction program could be carried out efficiently and economically, and completed within the allotted two-year period. While in general the company's engineer used a similar method in pricing materials and supplies, nevertheless, in many instances where construction had been done by the company during the above construction period, the costs of such materials and labor as were thus actually incurred have been used as the basis upon which the unit costs were developed. It is the contention of the company that wherever possible its actual experience in labor and material costs on construction installed during the two-year period should apply, and that where such work was not done during this period the local costs of labor and materials should apply in accordance with quantities purchased and the construction methods used in the company's actual experience. The determination of reproduction cost new by the adoption of such piecemeal pricing results in a higher total cost than by the use of methods embracing large quantity purchases and a continuous construction program.

The estimate submitted by the company's engineers may be described as an estimate of the investment if the property had all been built under price level conditions equal to that of the two-year period, except that interest during construction assuming wholesale construction was applied. To this extent it is inconsistent in application.

The Commission's engineers' estimate, on the other hand, is based on the assumption that the entire plant was built during the two-year period as one main job, conditions of wholesale purchase and construction being assumed. It is apparent that, to reproduce the properties in 1923–1924, paving actually existing would have to be cut, even though historically this had not been necessary. Under the assumption made by the Commission's engineers, some weight should be given to

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the total cost to reproduce the properties in 1923–1924. Under the company's basis, no consideration should be given to paving not cut. Both estimates have merit and bearing on the question of the determination of the value of the property; neither is controlling, however. One represents what it would cost in 1923–1924 to duplicate the existing plant; the other is a determination of the investment assuming the prices of 1923–1924 to have existed during the period of time within which the property was being constructed.

There appears some confusion on the part of the company of the two functions of estimating the cost of reproduction and finding the fair value of the properties in question. The estimate of reproduction cost new is not the final measure of fair value. It is merely one of the methods used to assist the Commission in arriving at such a value. It is based upon a certain series of assumptions, all of which are supposititious in character, and it can not be pushed to its logical end without creating absurdities almost too numerous to mention. We seek here a just equivalent in dollars of this company's property, not a technically accurate or exact cost to reproduce under any particular theory of arriving at such cost estimate. We will, therefore, give such weight as we deem proper and reasonable to the pricing theory advocated by the company and the reproduction cost new basis used by the Commission's engineers without following either exactly, and will consider both as elements which will affect our final determination of fair value.

Accrued Depreciation.

The next major difference in the two reports under consideration is in connection with the theories used in arriving at the depreciated value of the physical properties. A greater part of this difference may be attributed to difference in opinion among the engineers, the principles and methods followed by them being principally the same. However, Mr. Von Geldern, for the company, in arriving at the "condition per cent" of such structures and equipment as wells and pumping plants does not depreciate the entire installation but only those parts which he considers perishable. In the case of wells, the lining or casing only is depreciated by Mr. Von Geldern, the major items of cost, such as the labor of drilling and setting the casing and the cost involved in the construction of the well pits and their concrete linings being considered permanent and of indefinitely long life. In a similar manner he does not depreciate the pump pits and wells and the pump and motor foundation, although these were designed especially for the type of equipment installed.

Although wells may be relined, this is not the general practice, and the success of such action is often more or less speculative. This company has itself relined one well, but the evidence shows that the well

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has not been used since that time. If this theory of partial depreciation should be accepted as to the unperishable parts of wells, pump pits and foundation, there is no logical reason why it should not be extended to many other items of property, such as building foundations, cellars, excavation for pipe lines, gate valve pits, manholes, etc. To segregate the various component items of equipment and structures into those perishable and those unperishable would not only be impracticable but would result in the utmost confusion. In view of the fact that many other factors beside the probable period of existence of the component elements of a structure or a machine enter into the determination of depreciation, it appears to us that it is sounder and certainly more practicable to consider such structures and equipment as wells, pumps, motors, etc., as complete units, basing the depreciation estimate upon composite condition or the probable life of the unit according to the best judgment and experience of the engineers making the estimate.

A further cause for the difference in the engineers' estimates of accrued physical depreciation is the fact that witnesses Stava and Reed adopted and assumed life expectancies upon much of this system which are less than those assumed by witness Von Geldern. For example, Von Geldern assumed a life expectancy of one hundred years for the cast iron pipe of which practically all of the distribution system is constructed, whereas, Stava and Reed used lives for such facilities varying from fifty to seventy-five years, depending upon the size of the pipe. The evidence discloses that these shorter assumed lives were based generally upon an investigation into the actual experience of this utility, and that this experience has, in turn, been greatly affected by the necessity for replacing pipes because of inadequacy resulting from municipal growth.

The value of a given system to its owners, or to a purchaser, is affected without question by its ability to take care of normal growth without excessive expenditures. A system that has leeway is more valuable than one on which no additional customers can be served without extensive reconstruction. To the extent that a system is partially inadequate, weight must be given to the shorter lives used. However, the evidence is not such as to justify the use of lives as short as estimated by the Commission's engineers. We shall give to this factor of inadequacy such weight as may seem reasonable in view of the general condition of the system here under consideration. It is evident that a larger life expectancy than was assumed by the Commission's engineers must be used in this connection, and this will be done.

Main Office Building.

Considerable controversy arose over the value of the main office building, a four-story brick structure, the lower floor of which is used

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as the company's office, the second floor rented for living quarters, and the two upper stories (third and fourth) taken up by the structural steel supports of the 200,000-gallon flat steel storage tank or reservoir forming the top or roof of the building. While there are several smaller buildings, the main office building makes up the bulk of value assigned to this item. The reproduction cost new and the depreciated value of all buildings as presented by the company's engineer amounted to $11,000 and $27,000, respectively, more than the corresponding figures submitted by the engineers for the Commission.

This relatively large variation in the estimated depreciated values for the main building results from the different method of estimating the present condition of the structure, the company's witnesses estimating it at 75 per cent of new, and the Commission's engineers considering it to be but 50 per cent. The testimony shows that the original building on this site was built in 1859, the height being thirty feet. In 1887 the interior was destroyed by fire, and the building was then rebuilt but raised to a height of forty-five feet to provide better pressure for the distribution of water. In 1911 it was again necessary to increase the height of the building twenty feet to provide additional elevation for the storage tank.

In ascertaining the depreciation to be deducted from the cost to reproduce this building the company's engineer considered it as having a probably life varying from 160 to 200 years, and upon this assumption and the results of inspection he estimated its present dependable service condition to be 75 per cent. The estimate of 50 per cent condition made by the Commission's engineers was based upon their inspection of the building. From the evidence it appears that the estimate of the condition of this building made by the company is perhaps unduly optimistic. On the other hand, the estimate of the Commission's engineers is rather low. The real condition of the structure may be considered very properly as lying between these two estimates, and no injustice will be done by assuming them to be extremes.

A special report on the value of the main office building, storage tank and pumping equipment was presented by Paul Thelen, one of the Commission's engineers. This appraisement was based upon a comparison of the estimated cost of a modern office building, a steel tank and tower and centrifugal pumping equipment, all of equivalent serviceability and capacity. Because the two upper stories of the main office building can not be used for commercial purposes, a two-story brick building of modern design was used for this comparison. Consideration was also given to the cost of adapting the present building either to a two or a complete four-story structure.

Eliminating that part of the building devoted to supporting the tank, the present building for commercial purposes was appraised by

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Thelen at $19,000, which was checked by the methods of capitalizing the present rental value of the building, which gave a figure of $21,788. Using the cost of a hemispherical bottom steel tank and tower of equivalent height and capacity as a measure, the tank was valued by Thelen at $19,900. Using the capitalized saving in operating expenses assumed to be gained by the use of centrifugal pumping equipment, instead of the present displacement or triplex pumps, Thelen estimated the present pumping machinery to be worth $15,000.

The depreciated values of the main building, tank and pumps as submitted by Von Geldern were predicated upon his judgment as to the present physical condition of the property and included such allowances as he considered proper for changes in the arts or obsolescence. The estimates made by Stava and Reed embraced physical depreciation due to age and use and present condition only and excluded any consideration of such factors as savings in operation and maintenance expenses due to the possibility of substituting more modern construction and design. The appraisement made by Thelen was based upon his judgment of the value of this specific property in the light of what a prospective purchaser could reasonably afford to pay for it in view of the present improvements in the arts and sciences of building and water works construction.

For purposes of comparison of the various values placed upon the property discussed above, it is necessary to group the tank and main building together. The items below, while not absolutely comparable by reason of slight differences in the treatment accorded by the different engineers, approximately cover the items as listed.

Depreciated Value.

	Von Geldern	Stava & Reed	Thelen
Tank and main building	$67,546 00	$41,830 00	$38,900 00
Pumping equipment	24,540 00	21,725 00	15,000 00
Totals	$92,086 00	$63,555 00	$53,900 00

While the suggestions of witness Thelen have much to commend them from the practical standpoint of ascertaining what a "willing buyer" could afford to pay, they, like the estimates of "reproduction cost," are not to be considered as the exact measures of "fair value" —the end sought here. We shall give them weight, but do not find them controlling as to our determination of fair value in this proceeding.

Obsolescence.

The city contended that the fact that the only water storage on the entire system consisted of the tank forming a part of the top of the main building, not only reduced the value of the building for commercial purposes but was a serious handicap to the system as a storage

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tank, because increased pressure demands would require the future raising of the tank and building at considerable expense, or the installation of additional pumping equipment. It was further contended that a considerable saving could be made in operation and upkeep by the use of more flexible and more modern pumping machinery, susceptible of automatic control. To cover this item the city claimed that a deduction of twenty-five thousand dollars should be made from the value of the physical properties as set out in the main report of the Commission's engineer. This deduction may, in general, be said to have been suggested to cover the city's engineer's estimate of the present realized functional depreciation or obsolescent condition of these facilities.

In this connection the company sets forth that the existing equipment is now rendering good and adequate service at proper pressures and is maintained in good working order and condition; that at the time of installation and construction the buildings and equipment conformed to established standards of water works practice; that substitution of any of its present plant for equipment of improved design at this time is unnecessary from a service standpoint and unsound for economic reasons; and therefore that it is entitled to compensation for its equipment and plant in its present condition without reduction for functional depreciation, obsolescence or any other factors which directly or indirectly reflect present or prospective changes in the arts. It is further claimed that the city of Marysville, in seeking to divest the company, against its wishes, of its public utility properties by the exercise of the powers of eminent domain, has specifically designated certain property which it desires and for which identical property the city must pay a fair value, based upon its present condition and not upon an assumed standard of the value of some other "substitutional equipment" or improved type of construction considered more pleasing to the eye or more efficient in operation.

The controversy appears to us to arise largely because methods of determining value are seemingly confused with the "final fair value" sought to be ultimately established by this Commission. The property which the city seeks to acquire here is definitely known and set out. There are, however, several methods which may be pursued to measure its value. One of the measures is the cost to reproduce the property new, less accrued physical depreciation. This depreciated figure itself, except by accident, is not the final value sought and may be affected by many other factors which should be given proper consideration, one of which is the result of a reasonable comparison with the present cost of an installation of recognized and approved standards, capable of rendering an equivalent service. This does not mean that the existing

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equipment is not being appraised, but merely that in arriving at an estimate of its value it is being subjected to a yard-stick of comparative values.

Changes in the arts do not ordinarily affect the worth of machinery and equipment of relatively long lives, such as usually comprise water works systems, as greatly as do such changes in some other lines of business, and many a water system can still be operated satisfactorily which would not be duplicated if equivalent service were to be sought by more modern methods.

In the present instance it is our opinion that the existing building and tank of this company do not, regardless of the theoretical cost of duplication and regardless of their actual physical condition, possess a "value" in excess of what would be the cost of a new and modern structure and tank of equal serviceability and annual cost. A consideration of the testimony herein adduced leads us to the conclusion, however, that it has not been shown that the reproduction cost of such structures, less accrued physical depreciation is, in fact greater than the probable cost, original or actual, of such "modern" equipment. The evidence upon which we must base our determination in this proceeding does not, therefore, warrant a finding of value for such items less than the depreciated cost of the existing equipment.

Paving Over Mains Not Actually Cut.

The Company's engineer estimated the reproduction cost of cutting and replacing such paving as was actually removed during the existence of the company in the installation of mains and service connections to be $234. Te Commission's engineers estimated this cost to be $350, and in addition to this presented to the Commission for its information the estimated cost of cutting and replacing all paving over mains and services in place on July 21, 1924, but which had not been actually cut by the company. This amounted to $40,000, which was accepted as a reasonable figure by the company and the city.

In determining reproduction cost new, all improved methods of construction have been given weight, better transportation facilities due to paving are considered, and the excess cost of cutting paving in determining that estimate is an element. The question still remains—what weight in determining the *fair value* of the property should be given to the reproduction cost less depreciation determined on such a basis, and in particular of this item of cutting paving over mains. We shall give to this item what we believe to be a proper weight in determining "fair value" in this case.

Water Rights.

The Marysville Water Company obtains its entire water supply by pumping from nine wells, all located within a circle having a radius of

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one hundred feet. These several wells tap five different water-bearing strata, and are located on property belonging to the company in the rear of its office building in the heart of the city. They have a capacity with the present pumping equipment of approximately five million gallons daily, which, according to the company, can be augmented to six million gallons daily if necessary. Mr. Otto Von Geldern in his report has stated that he places a value of $60,000 on the right of this company to take water from this underground source. C. E. Grunsky and Edward Von Geldern both testified that in their opinion the underground "water rights" of the company are reasonably worth $60,000.

N. Randall Ellis, for the city of Marysville, testified that generally throughout that portion of the river valley in which Marysville is situated the lands are underlain with numerous strata of water-bearing gravels so that water can be and is obtained in large quantities from underground sources practically anywhere within the immediate vicinity of Marysville. The city, therefore, takes the position that water being readily obtainable from wells throughout the city, this company is not entitled to any special increment of value for water rights in addition to that included in the value of the land.

In support of its claims for water right values, the company, through the testimony of its engineers, contends that it has a proven supply of potable, pure and uncontaminated water, used from the same sources continuously for considerably over sixty years; that it has a right against all others to pump at least five million gallons daily from underground sources; that there is great strategic value in the fact that underlying the well field of the company there are five distinct water-bearing strata from which water may be developed in large quantities; and that it is not proven that such a condition obtains in any other section of the city or in the immediate vicinity.

The evidence shows that water is obtainable from wells generally throughout Marysville. Yuba City, located just across the Feather River, obtains its water supply from wells. There are several industrial plants in Marysville that have drilled their own wells and have obtained water therefrom, and are now using the same in varying quantities, presumably sufficient for their requirements. Apparently such private use of other wells in this locality has not in any manner diminished the yield of nor interfered with the underground water resources of the company. No evidence was submitted tending to indicate that the company has a prescriptive right to any of its waters, as against any other person or persons, or that it has ever at any time sought to stop or enjoin anyone from obtaining water from the other underground sources in Marysville or its general vicinity. No testimony was presented to the Commission showing that any sales of rights

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to acquire and pump underground water of similar type have ever been made in or about Marysville. We are, therefore, of the opinion that the company has failed to establish the existence of any especial or separate value for its "water right" to pump from underground sources, aside from those values already included in the value of the lands as water-bearing.

This Commission has repeatedly held that where water is obtained from underground sources as distinguished from appropriation from natural surface stream flow, there attaches thereto no water right value, separate and distinct from the land, other than that fixed for such land as water-bearing, unless a prescriptive right is established by the use of the water in such a manner as to interfere with the rights of other owners, or unless there has been established by adverse use a right to more than the taker's fair share thereof. (*Hudson* vs. *Dailey*, 156 Cal. 617; *City of Coalinga* vs. *Pleasant Valley Water Company*, 6 C.R.C. 33.) We shall not depart from this conclusion in the present instance.

Going Concern Value.

On behalf of the company, Otto Von Geldern estimated the "going concern value" of this property to amount reasonably to $20,000 in addition to the value of the physical properties and water rights. In his report Von Geldern takes the position that on this system water rights and going concern value are more or less interrelated, and that it matters but little whether the various elements are segregated into water rights, development expense, etc., or whether all items are grouped into a single unit and called, for instance, "Development of the business." This view is well set out in the following statement in his report:

> Many other examples like this have impressed upon the engineer the justness of the value of this so-called water right, which may be defined as a premium due to the successful effort to establish a water supply for a growing community, or, to put it in another way, a compensation due for a contribution to general prosperity. * * * A water company is therefore entitled to a certain interest in the prosperity which it has helped to create.

However, of the total of $80,000 estimated by Von Geldern as a conservative allowance for all intangible values, $60,000 was allocated by him to water rights and the remaining $20,000 to going value. According to this witness, going concern value should be recognized as a legitimate element of value to cover the expenses necessary for the development of a business toward a self-supporting end. A part of these expenses may go toward the development of water; another part is due to the direct loss of adequate interest on investment over a reasonably long development period, and is an element of value in addition to the value of the physical properties by reason of the fact

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that the system is not bare and idle but is in actual operation and doing business with large numbers of consumers.

C. E. Grunsky, for the company, testified that he considered the sum of $80,000 suggested by Otto Von Geldern to be a reasonable and proper allowance for the intangible values for which the Marysville Water Company is entitled to receive compensation, but did not place an independent value on the water rights as distinguished from going value. All intangible values were considered as a single and undivided entity. This estimate is based upon the theory that every public utility concern is entitled to obtain on the legitimately invested capital at least an ordinary interest return at prevailing market rates for money, and to compensation for management and the risk involved in the business, and is also entitled to a fair share in the general prosperity which it has helped to create. In further explanation Mr. Grunksy stated that in a valuation for purposes of sale an allowance made in earnings to cover management and risks of business can not be capitalized because such elements have no value to a purchaser. He assumes that a concern should reasonably be entitled to an allowance of 15 per cent of the volume of business done during the year to cover the above item. In this case the annual earnings are approximately $64,000, which would make the above allowance $9,600, segregated into one-third as compensation for risk and management because in this case the business has been long established and the risk therefore not so great and the management comparatively simple, the other two-thirds, or $6,400, representing the return on the other intangible values which have been created, whether water rights or going concern value, as it is generally called, or, as classified here, a "share in the general prosperity." Capitalization of this figure at 6 per cent results in a value slightly in excess of $100,000, which witness Grunksy held to be a fair allowance for these intangible items.

For purposes of comparison, Mr. Grunsky further testified that by capitalizing the difference between a fair return taken at 8 per cent and the cost of money at 6 per cent based upon an assumed legitimate investment of $350,000 for the physical properties, application of the methods outlined above will result in a value of $78,000 as the company's share in the general prosperity. By these methods he concluded that Mr. Von Geldern's estimate of $80,000 is a reasonable allowance for the intangible values of this system, including water rights and going concern value.

N. Randall Ellis, representing the city of Marysville, contended that under the reproduction cost theory, early development costs and cumulative losses, less than a fair return sustained during the operating history of the company are not a proper measure of going concern value. He states, however, that for purposes of sale or condemna-

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tion a utility is entitled to reimbursement for the financial lag in earning power or the sacrifice of return on investment incurred during the period of plant construction. Ellis takes the position, that as construction is carried on parts of the system will be placed in operation and will be serving consumers as soon as possible, and as the entire plant is considered to be completed and serving all consumers at the end of the two-year construction period, it is therefore reasonable to assume that on an average, one-half of the plant will be operative during the entire construction period. Based upon this assumption and upon the further consideration that interest during construction should properly cease when equipment becomes operative, he concluded that the company has already been adequately reimbursed for all financial lag and other intangible values to which it may be entitled through the allowances already made in the valuation of the physical properties, amounting to $5,000 for organization expense and interest during construction provided in the overhead at 7 per cent covering one-half of the two-year construction period.

It must be frankly conceded that in any attempt to ascertain a definite value for such a vague, elusive and intangible element as "going concern" we enter the realm of speculation usually covered by opinion, evidence and so-called "expert testimony," where economists and engineers can not agree. There is undoubtedly a value which attaches to a going concern that is not existent when the bare bones of the property are alone considered. In the present instance, however, as above stated, we are not convinced that the claimed water rights in themselves bear any such definite relationship to what we are seeking as may properly be considered in attempting to arrive at a value for going concern other than the fact that a water system must necessarily have a dependable water supply in order to be a going concern. It can only be to this extent that water rights have any direct bearing upon going concern value. On the other hand, we believe that the contention of the witness Ellis that all intangible values have been fully provided for in the allowances for organization expense and interest during construction, is open to the objection that such allowances should be and undoubtedly were intended to cover only the items of the physical property which they embraced.

If the term "going concern value" is to have any significance it can only mean the value which attaches to bare properties through and because of the expenditure of funds and effort in developing the business to its present status. We do not desire to be understood, however, as confusing this element of value with what has been called "development cost." They are related in that both refer to the bringing of the business into a live and working status, apart from the mere actual construction of the plant itself, and in some instances

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attempts have been made to bring the one into play as a measure or check of the other. In the present instance, while the allowance of interest during construction has been made for the purpose of covering the physical property alone, there is merit in the witness Ellis' suggestion that from a practical standpoint certain operations would be commenced before the two-year construction period had fully elapsed and that some of the lag would therefore be taken care of in the allowed interest. This can not be supposed, however, to cover all the elements of value properly classified under the head of "going concern." This water system may be considered to be in a fairly prosperous and going condition at the present time—a system that is earning a return upon the reasonable value of the property used and useful in rendering the service. But even conceding that it is entitled to an allowance in this instance to cover its "going concern value," we are of the opinion that the sum of $80,000 claimed by the company's witnesses is excessive. As stated above, however, we are also of the opinion that the contention that the value of these properties does not exceed the mere reproduction cost of the physical properties, less actual accrued physical depreciation and claimed functional depreciation, is unreasonable in this case. We will, therefore, include in the value of these properties as found herein an item to cover what we believe to be a reasonable allowance for going concern value.

Other Items.

Certain items of property were valued by the respective parties at approximately the same amount, as in the case of lands, where the difference is nominal. While discussion has not been entered into concerning all of the items herein, the Commission has considered each and every factor entering into and affecting the value of the properties of this company. The order herein will provide the total amount to be paid by the city of Marysville for the properties of the Marysville Water Company, and will include the sum of $15,000 for general equipment, material and supplies on hand, subject to adjustment at the time the transfer is made, to be confirmed by supplemental order of this Commission. By agreement of the parties herein the value of such properties as shall have been installed subsequent to the date of the filing of this application will be considered from the books and records of the company, subject to approval at the time of the transfer by supplemental order of this Commission.

Since the entire public utility properties of the company are herein sought to be valued, there is no severance damage to be fixed in this proceeding.

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FINDINGS.

The city of Marysville, a municipal corporation, having filed with the Railroad Commission on the twenty-first day of July, 1924, a petition as entitled above, and the Railroad Commission having proceeded under the provisions of section 47(*b*) of the Public Utilities Act to fix and determine the just compensation to be paid by the city of Marysville to the Marysville Water Company, a corporation, for the public utility water system supplying water to consumers in and in the vicinity of the city of Marysville, public hearings having been held thereon, the matter having been submitted and the Railroad Commission being now fully apprised in the premises:

It is hereby found as a fact that the just compensation to be paid by the city of Marysville, a municipal corporation, to Marysville Water Company, a corporation, for said company's public utility water system supplying water to consumers in and in the vicinity of the city of Marysville as said water system existed on the twenty-first day of July, 1924, and as more particularly described in Exhibit "A" attached hereto and hereby made a part of the findings herein, is the sum of three hundred and seventy-two thousand four hundred dollars ($372,400). Said sum includes the amount of fifteen thousand dollars ($15,000) for materials and supplies on hand as of the above twenty-first day of July, 1924, and is therefore subject to adjustment for the fair value of such materials and supplies as may be on hand if and when the above system is acquired by the city of Marysville.

Dated at San Francisco, California, this twenty-first day of December, 1926.

DECISION No. 17795.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS OF PROPOSED MINIMUM CLEARANCES ON RAILROADS AND STREET RAILROADS WITH REFERENCE TO SIDE STRUCTURES, OVERHEAD STRUCTURES, FARALLEL TRACKS AND CROSSINGS OF RAILROADS, STREET RAILROADS, STREETS AND PUBLIC HIGHWAYS.

Case No. 2290.

Decided December 22, 1926.

COMMISSION'S INVESTIGATION—MINIMUM CLEARANCES—RAILROADS AND STREET RAILROADS.—Commission's General Order No. 26-A providing for minimum clearances for railroads and street railroads revised as General Order No. 26-B.

Fred E. Pettit, Jr., for the Los Angeles and Salt Lake Railroad Company.

Frank Karr and *E. J. Foulds*, for the Southern Pacific Company, Pacific Electric Railway Company, Peninsula Railway Company, San Jose Railroads, Stockton Electric Railway Company, Fresno Traction Company, Central California Traction Company and Visalia Electric Railroad Company.

James S. Moore, Jr., for the Western Pacific Railroad Company, Tidewater and Southern Railway Company and Sacramento Northern Railway.

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W. W. Kelly and *E. T. Lucey*, for The Atchison, Topeka and Santa Fe Railway Company.
R. W. Dural, for the Pacific Gas and Electric Company.
B. F. Woodard and *E. R. Davis*, for the San Joaquin and Eastern Railroad Company.
B. S. Crittenden, for the Brotherhood of Railway Trainmen, Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen and the Order of Railway Conductors.
James T. Shaw, for the Pacific Telephone and Telegraph Company, the Sacramento Valley Telephone Company, United States Long Distance Telephone and Telegraph Company and the Southern California Telephone Company.
A. Terkell, for the California Independent Telephone Association.
H. M. Remington, for the California Growers and Shippers Protective League.
S. F. Foster, for the Market Street Railway Company.
Fuller L. Miller, for the Industrial Accident Commission of the State of California.
F. H. Hicks, for the Northwestern Pacific Railroad Company.
H. A. Mitchell, for the San Francisco-Sacramento Railroad Company.
E. H. Maggard, for the Petaluma and Santa Rosa Railroad Company.
H. P. Bell, for the Key System Transit Company.
J. O. Snyder, for the South San Francisco Belt Railway Company.

WHITSELL, *Commissioner*.

OPINION.

This is an investigation instituted on the Commission's own motion, as to proper minimum clearances to be provided on railroads and street railroads, with reference to side structures, overhead structures, parallel tracks, and crossings of railroads and street railroads with public roads, highways and streets, necessary to reasonably safeguard the health and safety of the employees, passengers and customers of common carriers and of the public.

Public hearings were held at San Francisco on November 30 and December 3, 1926.

The first order issued by the Commission, which dealt with railroad clearances, was made effective January 1, 1913, and was designated as General Order No. 26. This General Order was revised, being issued as General Order No. 26-A, effective April 15, 1925. Among the conditions making necessary the revision of General Order No. 26 at that time was the fact that clearances relating to electrical construction therein provided had been superseded by General Order No. 64. Representations have from time to time been made, on the part of interested parties, to have certain provisions in General Order No. 26-A changed, these representations having, in some cases, come from the carriers and in some cases from the employees of carriers. The points raised appeared to be of sufficient importance to justify a careful study on the part of the Commission's engineering department into the whole matter of railroad clearances. This study included consultation with representatives of many of the carriers, as well as representatives of railroad employees. As a result of these studies and conferences there was drafted by the Commission's engineering department a proposed General Order on this subject, which was introduced at the hearing on November 30th and identified in this proceeding as Commission's Exhibit No. 1.

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During the course of the hearing on that date it was suggested by certain of the parties at interest that the formal proceedings might be shortened by having a committee representing the carriers go into an informal conference with representatives of the railroad employees and the Commission's engineers both as to principles and as to details involved in Commission's Exhibit No. 1. Such a conference was, accordingly, arranged and it was stipulated that evidence at the adjourned hearing be restricted to those provisions of the proposed order on which the committee could not agree.

At the adjourned hearing, on December 3, 1926, Commission's Exhibit No. 2 was presented, which embodied all the provisions upon which the conference was able to agree. It developed that the conference was unable to agree on the matter of relating the clearances, as measured from the track, to the maximum sizes of freight cars and other equipment operated over the track. Commission's Exhibit No. 2, in its entirety, is satisfactory to and approved by the Commission's engineers and the railroad employee representatives, with the reservation that should the Commission not see fit to include the subsections which relate the clearances to the maximum sizes of freight cars and other equipment operated, an opportunity would be desired for the introduction of further testimony as to what would, in that event, be reasonable overhead and side clearances.

The entire matter, therefore, has been reduced to one issue; namely, the principle of relating clearances as measured from the track to the maximum sizes of freight cars and other equipment operated or proposed to be operated over that track and the manner of carrying that issue into effect. The carriers opposed the inclusion of paragraphs intended to place that principle in effect because of alleged practical difficulties which it was contended would make the order unworkable.

In discussing this issue, it appears appropriate to consider first the reasonableness of the principle involved, and, second, the practicability of the rules proposed.

F. L. Burckhalter, first assistant general manager of the Southern Pacific Company, who acted as chairman of the Carriers' Comittee at the conference, stated without qualification that the clearance requirements were manifestly related to the size of equipment—in other words, that the clearance which controlled the safety of operation was the net clearance between the side or top of equipment and the fixed structures along the line of railroad. J. W. Williams, chief engineer of The Western Pacific Railroad Company, likewise stated that overhead and side clearances on railroads are of necessity related to the size of equipment. Nowhere in the record was found anything to the effect that this is not true, and it must be concluded, therefore, that the principle

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of basing railroad clearances upon the size of equipment transported over the track affected, is sound.

Turning now to the consideration of the practicability of the rules which are proposed by the Commission's engineers and which are urged by representatives of railroad employees, for the carrying out of this principle: Mr. Burckhalter stated that, in his opinion, clearances should be based upon a survey of the equipment in operation at the time that the clearance was being determined, and that the operation of a few cars of large dimensions should not necessarily control. He contended that it would be impracticable for the railroads in California to embargo cars exceeding fifteen feet in height or ten feet six inches in width, to avoid having their clearance standards automatically changed by the movement of larger equipment than intended, and that the cost of transferring loads at the gateway, by the receiving railroad, would be unreasonable. He was of the opinion that the railroads of the country, working through the American Railway Association, were effectively taking care of the size of equipment in their designs of standard box cars to which the member railroads had agreed. Mr. Williams, after concurring with Mr. Burckhalter, further stated that in his opinion the Commission, if it found that the larger equipment had been placed in operation by the carriers, could readily and at any time revise the order to provide adequate clearances for such larger equipment.

The record shows that in August, 1926, there were in the United States 5886 freight cars having a height to running board greater than fifteen feet, of which 4016 belonged to the Southern Pacific and Union Pacific, two railroads having lines in California. On the other hand, it appears that in 1912 there were only 318 cars in the whole United States having such a height. In August, 1926, there were 20,426 freight cars having an over-all width greater than ten feet six inches, of which 14,252 belonged to the same two carriers. In 1912, there were 7679 such cars in the United States of which only 300 belonged to lines located in California.

Throughout the records there appears no positive statement or prediction that the size of freight cars will not increase, although the evidence shows that progressive steps are being taken by the American Railway Association to bring about a standardization. The evidence further shows that the western railroads, particularly the Southern Pacific and Union Pacific, have been the leaders in building the large equipment. Testimony of the railroad witnesses that the size of equipment, from the railroad's viewpoint, is limited by the size of the opening through which the equipment will physically move, and that physical clearance on the eastern lines is much smaller than that on the western, appears to be borne out by the tendency of some of the western roads to such larger equipment.

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The position of the carriers, that the proposed rules would be impractical of application, appears to be mainly based upon the alleged difficulty of determining whether or not freight cars received from connecting railroads at gateways were of a size which would require an adjustment of clearance standards during the time such cars were operated on tracks located in California.

Mr. Burckhalter, during his testimony, made reference to the document published monthly and known as the "Railway Equipment Register," with the comment that the publication was unique in that the dimensions of the more than 2,000,000 freight cars of the United States were individually listed therein, available for ready reference. The figures previously quoted taken from this source show that California railroads own the bulk of the existing large equipment. No doubt some of the remaining large equipment listed is in special service and not normally subject to interchange. The small number of freight cars remaining above the limitation of size mentioned, which are not controlled by the western roads and are in interchange, can be determined through the medium of the "Railway Equipment Register."

The tendency mentioned above appears to be for the western roads to acquire larger equipment than the eastern. It appears, therefore, that the California lines can readily make their decision as to which of said equipment they desire to interchange regularly and based upon such decision provide proper clearance for future construction.

These facts, when considered with the exact restrictions imposed by the language of the order, would indicate that most of the force that may lie in the objections raised by the carriers is not because of any inherent operating difficulty, but more because of a reluctance on the part of the carriers to take the responsibility of incurring certain roadway and structural increased costs which must be incurred if the same margin of operating safety is to be maintained as has been maintained in the past and at the same time take advantage of such economies as may accrue due to the operation of larger equipment. The proposed order merely makes it mandatory for each carrier to determine for itself the size of equipment that it desires to operate on any particular track and, having made that determination, to provide such construction standards as are necessary to permit of reasonably safe operation with that size of equipment. In the event that any particlar situation arises that would result in an unreasonable burden upon the carrier, if these provisions are applied, section XII of the proposed General Order points the way whereby relief may be obtained if the unreasonableness of the order in that particular case can be properly established. It, therefore, appears that there is little merit in the contention of the railroad witnesses that the proposed rules would be impracticable.

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Furthermore, it is evident that unless some provisions, such as the rules proposed, are included in the order, the very thing which the order purports to govern will remain ungoverned, in that the carriers may, without consulting the public safety and without a consideration of the costs involved in providing adequate clearance, proceed as they have done in the past to build equipment based upon the size of structures through which the equipment will move physically, rather than based upon the operation through or adjacent to structures with reasonable safety to the employees and the public. I am of the opinion that the safety of the public generally, and of the employees of the various carriers hereby affected demands the action in this connection which is herein recommended.

The following form of order is, therefore, recommended:

ORDER.

An investigation having been instituted on the Commission's own motion as to the proper minimum clearances to be provided by railroads and street railroads with reference to side structures, overhead structures, parallel tracks, and crossings of railroads and street railroads with public roads, highways and streets, public hearings having been held, and the matter being under submission and ready for decision, the Railroad Commission of the State of California hereby finds as a fact that the proposed rules and regulations establishing minimum clearance for railroad and street railroad tracks, and structures adjacent thereto, as prescribed in this Commission's General Order No. 26-B, are reasonable, just and necessary for the public health and safety. Basing its order on the above findings of fact;

It is hereby ordered, that all construction, reconstruction and operation of railroad and street railroad tracks, or structures adjacent thereto, coming within the jurisdiction of this Commission on and after January 1, 1927, shall conform to "Regulations governing clearances on railroads and street railroads with reference to side structures, overhead structures, parallel tracks and crossings of public roads, highways and streets" prescribed by the Railroad Commission of the State of California in its General Order No. 26-B.

The effective date of this order shall be January 1, 1927.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of December, 1926.

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General Order No. 26-B.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

REGULATION GOVERNING CLEARANCES ON RAILROADS AND STREET RAILROADS WITH REFERENCE TO SIDE STRUCTURES, OVERHEAD STRUCTURES, PARALLEL TRACKS AND CROSSINGS OF PUBLIC ROADS, HIGHWAYS AND STREETS.

Issued under authority of Public Utilities Act.

Approved December 22, 1926; effective January 1, 1927.

It is hereby ordered, by the Railroad Commission of the State of California, that the minimum clearance requirements for railroads and street railroads hereinafter prescribed shall hereafter be observed in this state in all construction or reconstruction of tracks, or structures adjacent to tracks.

It is hereby further ordered, that no railroad or street railroad corporation shall operate any cars, trains, motors, engines or other equipment over its own or other tracks, on which overhead or side clearances, or clearances between tracks, are less than the minimum herein prescribed, if such tracks, or structures adjacent to such tracks, were constructed or reconstructed subsequent to the effective date hereof.

RAILROADS AND STREET RAILROADS TRANSPORTING FREIGHT CARS.

I. Overhead Clearances.

(a) The minimum overhead clearance above the top of rail of railroad and street railroad tracks, which are used or proposed to be used, for transporting freight cars, for all overhead structures, except as hereinafter prescribed, shall be twenty-two (22) feet.

(b) The overhead clearance above top of rail of such tracks located inside of entirely enclosed buildings may be reduced to eighteen (18) feet provided that this clearance shall apply only to tracks terminating within the building, and further provided, that when an overhead clearance of less than twenty-two (22) feet is established on tracks inside such entirely enclosed building, all cars, trains, motors, engines or other equipment shall be brought to a stop before entering such enclosed building, the conditions provided to require such stop to be approved by the Commission.

(c) Overhead clearances authorized in this section are applicable only to tracks on which freight cars having a height to running board of fifteen (15) feet or less are transported. On tracks over which freight cars of greater height are transported or proposed to be transported, minimum overhead clearances shall be increased by an amount not less than such additional height.

II. Side Clearances.

(a) Minimum side clearances from center line of tangent standard gauge railroad and street railroad tracks, which are used or proposed to be used for transporting freight cars, except as hereinafter prescribed, shall be as shown below:

Item	Description	Minimum side clearance from center line of track
1.	All structures, except those specifically mentioned below NOTE.—It is recommended that posts, pipes, warning signs and other small obstructions, where practicable, have a clearance of ten (10) feet from center line of track.	8′ 6″
2.	Platforms.	
	A. Eight (8) inches or less above top of rail	4′ 8″
	B. One (1) foot nine (9) inches or less above top of rail	5′ 6″
	C. Four (4) feet or less above top of rail	7′ 3″
	D. Four (4) feet six (6) inches or less above top of rail when used principally for loading or unloading refrigerator cars NOTE.—Stepped platforms combining two or more of the above platform clearances not permitted. Existing platforms heretofore lawfully constructed in compliance with the clearance in effect at the time of construction, may be extended at the existing clearance, provided that such clearance shall not be less than six (6) feet six (6) inches from the center line of track.	8′ 0″
3.	Poles.	
	A. Poles supporting trolley contact conductors supplying motive power to track affected, if of bracket construction, on either single or double main track	8′ 0″
	B. Poles supporting trolley contact conductors supplying motive power to track affected, for all types of construction (other than bracket construction) adjacent to main tracks, and for all types of construction (including bracket construction) adjacent to all tracks other than main tracks	8′ 6″
	C. All other poles	8′ 6″
4.	Through bridges supporting track affected and tunnels	8′ 0″
5.	Block signals and switch stands.	
	A. Switch boxes, switch operating mechanisms, and accessories necessary for the control and operation of signals and interlockers projecting four (4) inches or less above the top of rail	3′ 0″
	B. Block signals and switch stands three (3) feet or less above top of rail and located between tracks where not practicable to provide clearances otherwise prescribed in this order	6′ 0″

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C. All other block signals and switch stands ..... 8' 6"

NOTE.—In order to bring switch stand targets into clear vision where pole lines are or have been constructed at legal clearance on railroads operated by overhead trolley contact, the above clearance as applied to switch stands may be reduced to seven (7) feet six (6) inches.

6. Water columns and oil columns ..... 8' 0"

7. Through bridges, hand rails, water barrels and refuge platforms on bridges and trestles, water columns, oil columns, block signals, cattle guards and cattle chutes, or portions thereof, four (4) feet or less above top of rail may have clearances decreased to the extent defined by a line extending diagonally upward from a point level with the top of rail and five (5) feet distant laterally from center line of track to a point four (4) feet above top of rail and eight (8) feet distant laterally from center line of track; provided, however, that the minimum clearance for such hand rails shall be seven (7) feet six (6) inches and the minimum clearance for fences of cattle guards shall be six (6) feet nine (9) inches.

8. All other objects and articles ..... 8' 6"

(b) All minimum side clearances prescribed in this section are for tangent track. In general, all structures adjacent to curved track shall have a minimum side clearance one (1) foot greater than the equivalent minimum side clearance required for tangent track. Where space is limited, the minimum side clearance for structures adjacent to tracks of not over twelve (12) degree curvature shall be the same as for tangent track, but if over twelve (12) degree curvature, one-quarter (¼) inch shall be added to the equivalent minimum side clearance required for tangent track for each degree of the curve. Where track contains superelevation, minimum side clearances shall be increased as necessary to give the equivalent clearances based on tangent track.

(c) The center line of any track constructed in and along a public street shall be at least ten (10) feet from the property line of said public street, or if the street has a lawfully established curb line, the track may be laid with its center line less than ten (10) feet from said property line, provided the center line of track be at least ten (10) feet from the lawfully established curb line, and not otherwise laid in violation of any clearance prescribed in this order. The purpose of this section is to provide a space in each public street in which pole lines of public utilities may be erected and lawful clearance with railroad tracks maintained.

(d) Log rollways may be erected and maintained with impaired clearance when adjacent to tracks operated exclusively for logging purposes.

(e) Minimum side clearances authorized in this section are applicable only to tracks on which freight cars having a maximum overall width not greater than ten (10) feet six (6) inches are transported. On tracks over which freight cars of greater width are transported or proposed to be transported, such minimum side clearances shall be increased not less than one-half of such additional width.

(f) For narrow gauge tracks, minimum side clearances from the side of widest cars operated shall be not less than the corresponding net clearance of a car of ten (10) feet six (6) inches in width for the equivalent minimum clearances prescribed in this section for standard gauge track.

III. Overhead and Side Clearances.

Minimum overhead and side clearances as prescribed herein in sections I and II of this order may be decreased to the extent defined by the half circumference of a circle having a radius of eight (8) feet six (6) inches and tangent to a horizontal line twenty-two (22) feet above top of rail at a point directly above the center line of track; provided, however, that for tunnels and through bridges, such radius may be eight (8) feet; and provided, further, that subsections I (c) and II (e) shall apply hereto.

IV. Clearance Between Parallel Tracks.

(a) The minimum distance between the center lines of parallel standard gauge railroad and street railroad tracks, which are used or proposed to be used for transporting freight cars, shall be thirteen (13) feet, except as hereinafter prescribed.

(b) The center line of any standard gauge track, except a main track or a passing track, parallel and adjacent to a main track or a passing track shall be at least fifteen (15) feet from the center line of the main track or passing track, provided, however, that where a passing track is adjacent to and at least fifteen (15) feet distant from a main track, any other track may be constructed adjacent to such passing track with clearance prescribed in subsection (a) hereof.

(c) The center line of any standard gauge ladder track, constructed parallel to any other track, shall have a clearance of not less than twenty (20) feet from the center line of such other track.

(d) Minimum clearance between center lines of two parallel team tracks may be reduced to eleven (11) feet six (6) inches provided that clearances otherwise prescribed in this order are maintained on the opposite side of each track.

(e) Minimum distances between parallel tracks authorized in this section are applicable only to tracks on which equipment having a maximum overall width not in excess of eleven (11) feet, is transported. On tracks over which equipment of greater width is transported or proposed to be transported, minimum distance between parallel tracks shall be increased not less than such increased width.

(f) For narrow gauge tracks, minimum distance between parallel tracks shall be not less than the corresponding net clearance of standard gauge equipment of eleven (11) feet in width for the equivalent clearances prescribed in this section.

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V. Other Articles Adjacent to Tracks.

(a) No merchandise, material or other articles shall be placed either on the ground or on platforms adjacent to any track at a distance less than eight (8) feet six (6) inches from center line of track.

(b) A suitable line or other marker should be maintained on all platforms and at a distance of eight (8) feet six (6) inches from center line of track to indicate minimum clearance for merchandise, material and other articles placed thereon.

RAILROADS AND STREET RAILROADS NOT TRANSPORTING FREIGHT CARS.

VI. Overhead and Side Clearances.

(a) The minimum overhead clearance above the top of rails of railroads and street railroads which do not transport or propose to transport freight cars, shall be fourteen (14) feet.

(b) Minimum side clearances of railroad and street railroad tracks which are not used or proposed to be used for transporting freight cars shall be thirty (30) inches from the side of the widest equipment operated, except that poles supporting trolley contact conductors between main line double tracks, may be not less than twenty-four (24) inches from side of widest equipment operated.

(c) Minimum overhead and side clearances as prescribed in this section may be decreased to the extent defined by a line extending diagonally downward from a point fourteen (14) feet above the top of rail and four (4) feet distant laterally from the center line of track to a point eight (8) feet above the top of rail and distant laterally thirty (30) inches from the side of the widest equipment operated.

(d) Minimum side clearances, as prescribed in this section, may be decreased to the extent defined by a line extending diagonally upward from a point level with the top of rail and five (5) feet distant laterally from the center line of track to a point four (4) feet above the top of rail and distant laterally thirty (30) inches from the side of the widest equipment operated.

VII. Clearance Between Parallel Tangent Tracks.

(a) The minimum distance between the center lines of parallel tangent railroad and street railroad tracks which are not used or proposed to be used for transporting freight cars, shall be sufficient to provide a clearance of twenty-four (24) inches between the sides of the widest cars transported.

VIII. Exceptions.

(a) Minimum clearances prescribed in section VI and section VII may be reduced at passenger loading platforms.

(b) Minimum clearances prescribed in section VI and section VII may be reduced for trackage located in subways and tunnels, or compartments thereof, which are used exclusively for railroad passenger traffic and which do not carry any other forms of traffic, providing, however, that the passenger equipment operated therein shall have all windows and other openings effectively barred.

(c) Nothing herein shall be construed as preventing the movement of material over railroad or street railroad tracks which are not used or proposed to be used for transporting freight cars, which is necessary in the construction or operation of said railroad or street railroad system, nor in the movement of special work equipment used in the construction or operation of said system, provided, however, such operation shall be carried on in a safe manner.

PUBLIC ROADS, HIGHWAYS AND STREETS CROSSING UNDER OR OVER RAILROADS AND STREET RAILROADS.

IX. Public Roads, Highways and Streets Crossing Under Tracks.

(a) Where railroads and street railroads cross above public roads, highways and streets, a minimum overhead clearance above the surface of such roads, highways or streets of fourteen (14) feet shall be provided.

(b) Where railroads and street railroads cross above public roads, highways and streets, a minimum width of opening for such public roads, highways or streets of twenty (20) feet shall be provided, where only one span is used to support the railroad or street railroad structure. Where two or more spans are used to support the railroad or street railroad structure, a minimum width for each opening of twelve (12) feet shall be provided.

(c) When the public road, highway or street is occupied by one or more tracks, minimum clearance dimensions shall be determined by this Commission for the case under consideration.

X. Public Roads, Highways and Streets Crossing Over Tracks of Railroads and Street Railroads.

(a) Where public roads, highways and streets cross above railroad or street railroad tracks, which are used or proposed to be used for transporting freight cars, minimum clearances as prescribed in sections I, II, III and IV shall be provided.

(b) Where public roads, highways or streets cross over railroad or street railroad tracks which are not used or proposed to be used for transporting freight cars, minimum clearances as prescribed in sections VI, VII and VIII shall be provided, except that a minimum overhead clearance of nineteen (19) feet above top of rail shall be provided, unless modified by the Commission.

GENERAL REQUIREMENTS.

XI. Electrical Construction.

All clearances of electrical construction over, above, adjacent to, along or across railroads and street railroads shall conform to the requirements specified in General

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Order No. 64, or such other and further general or other orders as may be issued by the Commission superseding or amplifying same.

XII. Exemptions.

If, in a particular case, exemption from any of the requirements herein is desired, the Commission will consider the application of a carrier for such exemption when accompanied by a full statement of the conditions existing and the reasons why such exemption is asked. It is to be understood that any exemption so granted shall be limited to the particular case covered by the application.

The Commission reserves the right to modify any of the provisions of these rules in specific cases, when in the Commission's opinion, public interest would be served by so doing.

This order supersedes all regulations covering clearances of tracks, railroads and street railroads or structures to such tracks constructed or reconstructed subsequent to the effective date hereof, heretofore promulgated under title "General Order No. 26," "General Order No. 26-a," and "Section 61 (a) of General Order No. 64."

This order shall be effective on and after January 1, 1927.

Approved and dated at San Francisco, California, this twenty-second day of December, 1926.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.
By H. G. MATHEWSON, Secretary.

DECISION No. 17796.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE REASONABLENESS OF THE RATES, CHARGES, PRACTICES, CONTRACTS, RULES, REGULATIONS, SCHEDULES AND CONDITIONS OF SERVICE, OR ANY OF THEM, OF B. G. ADAMS, OPERATING UNDER THE FICTITIOUS NAME OF VERMONT WATER COMPANY, IN TRACTS NUMBERS TWO THOUSAND TWO HUNDRED SEVENTY-THREE AND FOUR THOUSAND SEVEN HUNDRED FIFTY-FOUR, FIGUEROA HEIGHTS, WOOLOCOTT HEIGHTS AND VERMONT VILLA TRACT, LOS ANGELES COUNTY, CALIFORNIA.

Case No. 2276.

Decided December 23, 1926.

COMMISSION'S INVESTIGATION—WATER UTILITY—RATES—RULES AND REGULATIONS—TAP FEES.—It is found that B. G. Adams, operating Vermont Water Company, has violated Rule 19 of that utility in 89 instances by collecting tap fees. Return of such illegal fees, and an accounting of all such refunds, ordered.

Clarence Weber, for B. G. Adams.

WHITSELL, *Commissioner*.

OPINION.

This proceeding was begun by the Commission by an order on its own motion instituting an investigation into the reasonableness of the rates, charges, practices, contracts, rules, regulations, etc., of B. G. Adams, operating under the fictitious name of the Vermont Water Company in Tracts 2273 and 4754, Figueroa Heights, Woolocott Heights and Vermont Villa tracts, Los Angeles County, California. The order instituting investigation was issued under date of September 4, 1926. A public hearing on the matter was held in the city of Los Angeles on November 3, 1926, at which time evidence, both oral and documentary, was taken. B. G. Adams was present at the hearing with his attorney, Clarence Weber.

The record in this proceeding shows that B. G. Adams, under the fictitious name of the Vermont Water Company, is operating a public

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utility domestic water system in the city of Los Angeles, in the vicinity of 110th and Hoover streets, and that he has been operating such system continuously since March 23, 1925. At the present time some 195 consumers are being served. It appears that the system is being operated pursuant to the authority granted by this Commission by its Decision No. 13305, dated March 22, 1924, which decision was rendered in the matter of Application No. 9650. By this application B. G. Adams sought a certificate of public convenience and necessity as required by law for the operation of his system, and described in detail territory which he proposed to serve, the type of plant constructed and the rate proposed to be charged. Subsequent to the granting of the certificate of public convenience and necessity by Decision No. 13305, B. G. Adams, under date of March 23, 1925, filed with this Commission his rates, rules and regulations covering his operations. It appears that the said rates, rules and regulations so filed are still in full force and effect, and that no authority has been granted by this Commission for their modification. Rule 19 of the said rules and regulations provides as follows:

RULE AND REGULATION.

No. 19—Extension of Water Service, Cost and Ownership on Private Property.

Upon application by a bona fide applicant for service, the company will, at its own expense, furnish and install service pipe of suitable capacity from its water mains to the curb line or property line of property abutting upon a public street, highway, alley, lane or road along which it already has or will install street mains.

The consumer will install that portion of the service inside of curb or property line, the expense of same to be paid by the consumer.

The materials furnished by consumer in construction of such service extension will at all times be and remain the sole property of the consumer and when necessary shall be maintained and repaired by consumer at his own expense.

The company will not be required to install more than one service to any one consumer.

The testimony in this matter shows that the above quoted rule 19, since its establishment, has been violated by the operator, B. G. Adams, in 89 instances. It appears to have been the practice of Mr. Adams to exact a "tap fee" of fifteen dollars from a prospective consumer before a physical connection would be made from the street water main of the system to the abutting curb line or property line of the consumer. Every such fee so exacted clearly was in violation of Rule 19 inasmuch as under said rule it was incumbent upon the operator, at his own expense, to furnish and install such necessary pipe and connections.

In my opinion, B. G. Adams should be required to refund all "tap fees" which he has collected since March 23, 1925, the date upon which he filed with the Commission his rates, rules and regulations, and the date upon which his operations unquestionably acquired the status of a public utility.

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Apparently by way of justification for his practice of charging a "tap fee," Mr. Adams testified that the city of Los Angeles, in the operation of its municipal water system in and around the territory in which he operates, has been charging its new consumers such a fee for a like service. The city of Los Angeles, in the operation of its water system, of course, is not subject to the jurisdiction of this Commission, and, therefore, does not operate under rules and regulations on file with this Commission as does Mr. Adams. The practice of the city in this matter could in no way justify this operator in the violation of his Rule 19.

It is well recognized by this Commission that the requirements found in Rule 19 are reasonable. Practically all of the domestic water companies of this state, subject to the jurisdiction of this Commission, have established and filed with this Commission a rule in substance the same as Rule 19 of the Vermont Water Company. The reasonableness of such rule was carefully reviewed in an early decision of this Commission, wherein it established certain uniform rules and regulations to be observed by water companies and other designated public utilities (7 Railroad Commission Reports, 830, 851).

The following form of order is recommended:

ORDER.

The Railroad Commission of the State of California having instituted an investigation upon its own motion into the reasonableness of rates, services, rules, regulations and practices of B. G. Adams, operating under the fictitious name of the Vermont Water Company, in Tract 2273 and other designated tracts in Los Angeles County, California, a public hearing having been held thereon, the matter having been submitted, and it being the opinion of this Commission that the service here in question is a public utility service subject to its jurisdiction and control:

It is hereby found as a fact that the said B. G. Adams, in the operation of his said public utility water system has violated Rule 19 of his rules and regulations on file with this Commission, in the manner outlined in the foregoing opinion.

It is hereby further found as a fact that the said B. G. Adams has violated said Rule 19 in the said manner in 89 instances since the establishment of said rule on March 23, 1925.

And basing its order on the foregoing findings of fact, and on the further statements of fact contained in the opinion which precedes this order;

It is further ordered, that B. G. Adams refund to all consumers having paid the same, all "tap fees" collected since the establishment of his Rule 19 on March 23, 1925; that such sums be refunded within

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thirty days from the effective date of this order; that within forty days from the effective date of this order, said B. G. Adams file with this Commission a statement showing the names and addresses of persons to whom such "tap fees" have been returned, the respective amounts returned, and the dates upon which such sums were returned.

The effective date of this order shall be twenty days from date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1926.

DECISION No. 17798.

IN THE MATTER OF THE APPLICATION OF PETALUMA POWER AND WATER COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING APPLICANT TO INCREASE ITS RATES AND CHARGES AND TO FILE AND PLACE IN EFFECT NEW SCHEDULES OF RATES AND CHARGES FOR WATER SERVICE FURNISHED AND SUPPLIED TO ITS CONSUMERS IN THE CITY OF PETALUMA, SONOMA COUNTY, CALIFORNIA, AND IN THE TERRITORY ADJACENT TO SAID CITY OF PETALUMA.

Application No. 11711.

Decided December 23, 1926.

RATES—WATER UTILITY—TO INCREASE.—Water rates of Petaluma Power and Water Company revised to effect a more equitable spread of the cost of the service, and to realize an increase in the net return of the utility on its investment rather than by a uniform increase of rates for all consumers.

Geary and Geary by *W. F. Geary*, for Applicant.

F. S. Howell, City Attorney, for the city of Petaluma.

WHITSELL, *Commissioner*.

OPINION.

The Petaluma Power and Water Company, applicant herein, is an incorporated public utility engaged in the business of supplying water for domestic, industrial and municipal purposes in the city of Petaluma and adjacent territory, Sonoma County. In the application as filed in this proceeding, it is alleged in effect that the rates at present charged are noncompensatory and inadequate to yield sufficient revenue to meet the necessary and reasonable maintenance and operation expenses of the system, including a depreciation allowance and in addition provide for a just and compensatory interest return on the investment which applicant has made in rendering water service to its consumers.

Public hearings were held in this matter at Petaluma on January 8 and August 18, 1926, after all interested parties had been duly notified and given an opportunity to be present and be heard.

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This water system was originally installed by the Petaluma Water Company, which obtained a franchise to lay water mains in the streets from the city of Petaluma through an ordinance adopted April 8, 1872. About 1882 the then existing plant was purchased by the Sonoma County Water Company, a corporation, which extended and enlarged the system progressively to meet the growing needs of the community. The Petaluma Power and Water Company, applicant herein, was incorporated January 12, 1900, and acquired all the properties of said Sonoma County Water Company by deed recorded May 1, 1900. The growth in consumption of water during the succeeding years has necessitated at intervals extensive enlargements and improvements of the system including the development of additional sources of supply. The system as at present installed consists of a gravity supply diverted directly from several small streams located in the Sonoma hills twelve miles northeasterly from Petaluma, the summer flow of these streams being supplemented by storage of run-off waters in Lawler Reservoir at elevation 1030 feet with a capacity of 87½ million gallons. In addition to the stream flow, a supply is obtained by pumping from 11 drilled wells and then boosted into the transmission mains, which deliver from the creek sources into the distribution system and to the Oak Hill distributing and regulating reservoir with a capacity of 3 million gallons.

The distribution mains in the business and industrial area are largely cast iron pipe, 6 to 10 inches in diameter, and apparently provide adequate service and pressures with the present demands on the system.

Detailed appraisals of the value of the properties of this utility were submitted at the hearing by G. S. Strout, engineer for the company, and by H. A. Noble, one of the hydraulic engineers of the Commission. The results of these appraisals are set out below:

By Gale S. Strout:		
Total value of the operative physical properties of the system, computed on basis of original cost, as of December 31, 1924		$431,321 00
Water Rights and Rights of Way		
Various payments in cash, plus 15 per cent overhead	$30,225	
Various payments in stock at $100 par, plus 15 per cent overhead	9,430	
Lafferty Ranch (269.75 acres) purchased to control water shed and water rights at head waters Adobe Creek	13,487	
Total value of water rights and rights of way		53,142 00
Total estimated cost of service pipes installed and maintained by the company for delivery of free water as consideration for rights of way acquired, plus 15 per cent overhead		2,029 00
		$486,492 00

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Non-Operative Property		
Cavanaugh Springs—located in city limits (abandoned)----	$100	
Hillside Reservoir site—1907 construction work abandoned--	5,440	
Wet Wash Laundry well, McNear well and Cavanaugh Springs well, drilled in 1920 in the emergency of the water shortage of that year and abandoned—total cost plus 17 per cent overhead ----------	6,474	
Well No. 11 on Kresky tract—drilled in 1922, a dry well and abandoned—cost, plus 17 per cent overhead----------	1,004	
Total nonoperative property----------		13,018 00
Grand total of appraisal----------		$499,510 00
Depreciation annuity, computed on 4 per cent sinking fund basis----------		5,739 41
By H. A. Noble:		
Total estimated historical cost of the physical properties at present used and useful, exclusive of water rights and rights of way and certain nonoperative and abandoned properties for which Mr. Strout, in his appraisal, gives a total value of $68,189.00, as indicated above------		$411,891 00
Six per cent sinking fund depreciation annuity----------		3,455 72

Excluding the items for water rights, rights of way and nonoperative property, the totals of the two appraisals submitted are not far apart, yet a comparative analysis made of the details of these appraisals shows a considerable variation in the respective costs as affixed for certain items and groups of items. The principal difference may be attributed to the allowances for overhead expenses. It appears that the appraisal of the Commission's engineer includes a liberal allowance for such overhead expenses as were reasonably necessary and actually incurred in the construction of this system.

The evidence indicates that cash payments to the extent of $26,282 were made to various individuals in exchange for water rights and rights of way. In addition thereto, about 1907 the company issued to five individuals a total of 82 shares of its common stock having a par value of $100 per share, in consideration for certain water rights and rights of way on Copeland Creek. It is apparent, after considering the history of the installation of this system, that the worth of this common stock in 1907 was considerably less than $100 per share, and accordingly the amount included for this item in Strout's appraisal is in excess of the actual cost of such rights to the company. In the absence of more definite information, we will allow for this item $60 per share or a total of $4920 as representing the cost. Applicant stated that about $2,000 of the purchase price of $13,487 for the Lafferty Ranch, containing 269 acres, would cover the cost of the water rights and rights of way acquired in connection therewith, but that the land itself is nonoperative and not now needed for the protection of the Adobe Creek watershed against pollution because the water is now all chlorinated before delivery into the transmission mains.

The total actual cost of acquisition of the rights of way and water rights from the figures given above amounts to $35,231, which

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for the purpose of this proceeding appears to be a reasonable allowance for these items. This sum includes $2,029 representing the cost of installing certain pipe lines for the delivery of free water in consideration of the transfer of certain of the above rights.

Three of the wells listed above as nonoperative property were drilled in 1920 to provide additional water during the emergency caused by the acute water shortage which occurred that year. These wells have since been abandoned and following an investigation of available underground sources of supply the present 40-acre Kresky tract of water-bearing land was purchased in 1921, upon which the existing wells and pumping plants were installed. The evidence indicates a certain degree of negligence on the part of applicant as to its obligations to the public in not having had prepared definite plans prior to the 1920 water shortage for increasing its available water supply to meet the rapid growth in the consumption and demand for water existing in the community at that time. The records of operations for the years subsequent to 1920 show that even during the years of normal rainfall the gravity supply from the stream sources as developed has been inadequate to meet properly the demands during the summer months. Under these circumstances it appears that the cost of said abandoned wells should be charged with the 1920 emergency water shortage expenses and not as a capital charge to be included in the rate base upon which interest will be returned from rates to be paid by present and future consumers. The item of $1,004 as the cost of Kresky Well No. 11, drilled in 1922 and abandoned when it proved to be dry, may reasonably be allowed as a cost of developing the well sources of this supply.

After further consideration and analysis of the evidence regarding the value of the physical properties of this plant and making allowance for the amounts of the other items of value discussed above, it appears that the sum of $448,126 is a reasonable rate base to be allowed for the purpose of this proceeding, and that the corresponding depreciation annuity of $3,500, computed by the sinking fund method, will reasonably provide for the renewal of the various portions of the plant as they may become worn out through use or discarded by reason of inadequacy or otherwise.

The following tabulation, compiled from its annual reports filed with the Commission, gives a comparison of the maintenance and operation expenses of this utility for the past five years, exclusive of depreciation:

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SUMMARY OF MAINTENANCE AND OPERATION EXPENSES.

Items	1921	1922	1923	1924	1925
Sources of water supply					
Repairs—labor and materials	$3,321 79	$1,450 81	$1,603 40	$2,744 47	$1,004 46
Pumping expenses:					
Pumping labor		$311 10		$1,938 90	$2,631 59
Electric power purchased	$28 25	217 62	$1,434 50	3,958 29	2,880 75
Repairs to equipment and supplies		220 37	2,423 57	1,637 47	477 07
Total pumping expenses	$28 25	$749 09	$3,858 07	$7,535 66	$5,989 41
Purification expenses:					
Supplies and repairs to equipment	$246 85	$275 93	$785 45	$41 90	$315 61
Transmission and distribution expenses:					
Operating labor and expenses	$1,178 74	$814 04	$613 53	$2,418 19	$2,650 47
Repairs to pipe mains and services	1,579 25	1,668 35	3,194 81	3,269 86	2,436 23
Total transmission and distribution expenses	$2,757 99	$2,482 39	$3,808 34	$5,688 05	$5,086 70
Commercial expenses:					
Collection, etc.	$344 98	$415 67	$517 98	$700 17	$609 20
General and miscellaneous expenses:					
General officers, and clerks, salaries and expenses	$4,080 00	$4,433 17	$5,187 67	$5,611 90	$6,545 79
Law expenses—general		26 86	127 50		90 00
Railroad Commission expenses					462 50
Miscellaneous general expenses	1,040 88	1,325 75	1,325 26	2,366 26	2,761 99
Insurance	175 86	282 24	302 83	565 85	566 16
Extraordinary repairs	242 25	229 50	267 75	250 75	597 16
Total general and miscellaneous expenses	$5,538 99	$6,297 52	$7,211 01	$8,794 76	$11,023 60
Taxes	$3,293 39	$4,323 62	$6,194 08	$5,248 08	$6,265 15
Grand totals	$15,532 24	$15,994 13	$23,978 28	$30,752 99	$30,294 13

The large increase in the total operating expenses for 1924 and 1925 over the totals shown for the previous years is largely accounted for by the pumping expenses incurred incident to the permanent well supply recently installed, by the large increase in the expenditures for repairs to the distribution system and by certain extraordinary general expenses which do not recur annually.

Analysis of the evidence submitted concerning the methods and costs of operating for the years 1924 and 1925 indicates that in 1925 an item amounting to $1,186.76 had through inadvertence been entered twice, also that certain changes in the distribution system have been improperly charged to maintenance and operating expenses instead of to the fixed capital accounts. The items thus charged in 1925 amounted to over $700. A further deduction of approximately $142 should be made in 1925 for taxes paid on nonoperative property. Extraordinary engineering and legal expenses, incurred in 1925 in connection with the preparation of evidence for the present proceeding, amounted to $2,205. Past experience of this utility shows that such expenditures do not recur annually in like amounts. A careful analysis of all the evidence relating to operating expenses heretofore incurred, after taking into consideration the above corrections for 1925 and allowing for normal expenses for repairs to the distribution system and for pumping, and also a sum for above extraordinary expenses to cover their probable recurrence in the future, indicates that under present

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operating conditions the sum of $28,500 is a reasonable allowance for maintenance and operation expenses for the immediate future.

Taking into consideration the facts set out herein together with all evidence submitted in regard to the value of the plant, the operating conditions obtaining and the present character and adequacy of the service rendered, it appears that the following annual charges are fair and reasonable amounts to be produced from the rates charged consumers.

Maintenance and operation expenses	$28,500
6 per cent sinking fund depreciation annuity	3,500
Interest return on a rate base of	448,126

The rates at present in effect were established by an ordinance of the board of trustees of the city of Petaluma enacted June 11, 1913. Substantially the same rate schedule had been in effect and charged since 1902. These present rates for measured service are in part as follows:

For water where the amount used is to be determined by meter, the price per one thousand gallons per month shall be as follows:

For 5000 and less	$0.40
For more than 5,000 gallons and less than 15,000 gallons	.30
For more than 15,000 gallons and less than 30,000 gallons	.25
For more than 30,000 gallons	.20
Minimum charge	1.00

The present rate schedule produced for the year 1925 a total gross revenue of $58,095.30 and in addition nonoperating revenues during this year amounted to $1,223.11.

Assuming that for the 1925 operation of this system the above allowance for operation expenses and depreciation of $32,000 is applied, the resulting net revenue for this year available for interest return would have amounted to about 5.8 per cent on the rate base of $448,124. It is therefore apparent that applicant is entitled to a slight adjustment in its present schedule of rates.

The evidence submitted regarding water use on the system shows that there has been a considerable growth in the number of consumers and also in the consumption of water during the past five years. In 1925 the active consumers totalled 2434, of which 2248 were served on a metered basis. As indicating the character of the 1925 water use on this system, an average of 1198 consumers or 57 per cent of the total number used 400 cubic feet of water or less per month, and the use of the 17 industries served ranged from 10,000 to 70,000 cubic feet per month.

A study of the rate schedule at present in effect, in connection with the tabulated record of the monthly metered water use, shows that the present form of rate schedule does not effect an equitable distribution of the charges to the various consumers according to the character

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of their respective uses of water. It appears that the necessary increase in revenue may be largely realized by an adjustment of the form and spread of the present rate schedule rather than by a uniform increase for all consumers. Accordingly, after taking into consideration the probable growth in the number of consumers and consumption of water, the rate schedule set out in the following order has been designed to accomplish a more equitable distribution of the charges and should yield a fair return upon the rate base herein established, upon the findings set out above.

The following form of order is submitted:

ORDER.

Petaluma Power and Water Company, a corporation, having made application to this Commission for authority to increase the rates charged for water delivered to its consumers in the city of Petaluma and adjoining territory in Sonoma County, a public hearing having been held thereon, the matter having been submitted with the filing of briefs, and the Commission being now fully informed thereon:

It is hereby found as a fact that the rates now being charged by the Petaluma Power and Water Company for water supplied its consumers are unjust and unreasonable in so far as they differ from the rates established herein, and that the rates herein established are just and reasonable rates to be charged for such service. And basing its order upon the foregoing findings of fact and on the statement of fact contained in the preceding opinion;

It is hereby ordered, that Petaluma Power and Water Company be and it is hereby authorized and directed to file with this Commission within twenty days from the date of this order, the following schedule of rates for water delivered to its consumers, said rates to be charged for all service rendered subsequent to January 1, 1927:

Meter Rates.

Minimum monthly charges—

For ⅝ inch meter	$1 25
For ¾ inch meter	1 75
For 1 inch meter	2 50
For 1½ inch meter	4 50
For 2 inch meter	6 00
For 3 inch meter	10 00
For 4 inch meter	16 00

Each of the foregoing "minimum monthly charges" will entitle the consumer to the quantity of water which that minimum monthly charge will purchase at the following "monthly quantity rates."

Monthly quantity rates—

From 0 to 800 cubic feet, per 100 cu. ft.	$0 35
From 800 to 3000 cubic feet, per 100 cu. ft.	0 24
From 3000 to 15,000 cubic feet, per 100 cu. ft.	0 18
All over 15,000 cubic feet, per 100 cu. ft.	0 12

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Municipal and County Use.

1.	Water used for street sprinkling and sewer flushing, by computed or measured quantity per 100 cubic feet	$0 18
2.	For each fire hydrant installed by the city	2 50
3.	All other municipal use of water, including public buildings, schools and irrigation of parks and grounds, to be charged for at the regular meter or flat rates.	

Flat Rates.

Where service connections are installed solely for use of automatic fire sprinkler systems or for private fire protection purposes:

For 6" service connection, per month	$9 00
For 4" service connection, per month	5 00
For 2" service connection, per month	2 50

Except as above modified the schedule of flat rates now charged shall be continued in effect.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1926.

Decision No. 17799.

IN THE MATTER OF THE APPLICATION OF MOORPARK FARMERS WATER COMPANY FOR A REVISED SCHEDULE OF RATES, RULES AND REGULATIONS FOR DELIVERY OF IRRIGATION WATER.

Application No. 12754.

Decided December 23, 1926.

RATES—WATER UTILITY—IRRIGATION SERVICE—STANDBY SERVICE.—Finding that the rates of Moorpark Farmers Water Company do not provide adequately for maintaining the service, rates are established that are expected to reimburse the utility for maintaining a standby or emergency water supply during the greater part of the year when the consumers draw on their own wells.

Gibson, Dunn and Crutcher, by *Paul R. Watkins*, for Applicant.

BY THE COMMISSION.

OPINION.

Moorpark Farmers Water Company, a corporation, applicant in the above entitled proceeding, is a public utility engaged in the business of selling water for domestic and principally irrigation use to consumers in and in the vicinity of Moorpark, in Ventura County. The application requests the Commission to establish a revised schedule of rates and rules and regulations governing the delivery of water to consumers.

A public hearing in this matter was held at Moorpark before Examiner Williams, after all interested parties had been duly notified and given an opportunity to appear and be heard.

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This utility has been engaged in supplying water mainly for irrigation use for more than twelve years. The water supply is obtained by pumping from wells and is delivered to consumers through approximately 27,060 feet of riveted steel and concrete pipe lines ranging from 12 to 20 inches in diameter. The company has five wells located in a section known as Arroyo Simi, all drilled and cased; four are 18 inches in diameter and the other is 14 inches. The depths vary from 69 to 397 feet. The total capacity of these wells is claimed to be approximately 203 miner's inches. At the present time there are 17 concrete weir boxes on the system, used for measuring the flow of water delivered to consumers. During the irrigation season of 1925 service was rendered to thirteen active consumers, representing a total of 449 acres. This season one of the consumers which received water for redistribution for domestic purposes, the Ventura County Water Works District No. 1, has permanently discontinued receiving water from applicant, having arranged to obtain its water supply from another source.

The schedule of rates now charged by this utility is two cents per miner's inch hour, based upon a miner's inch equivalent to one-fiftieth of a cubic foot of water per second.

Applicant requests the Commission to establish the following modified form of rate schedule for irrigation service:

For water delivered during the months of January to and including September, per miner's inch hour	$0 02
October to and including December, per miner's inch hour	0 01½

In addition to this, a monthly minimum charge of one dollar per acre payable in advance is requested, this amount to be applied toward the purchase of water at the rates in effect for deliveries made during the quarter of the year in which the minimum payments are due and not applicable to service to be rendered during any other quarter.

A statement was submitted by applicant setting forth the book values of the fixed capital installed as $53,542; the maintenance and operating expenses for 1925 were given as $13,724, with revenues amounting to $10,899 for the corresponding period.

An investigation of this system was made by F. H. Van Hoesen, one of the Commission's hydraulic engineers, who submitted a report in which the original cost of the used and useful physical properties was estimated to be $56,400 as of May 15, 1926, with a corresponding depreciation annuity of $873, computed by the sinking fund method. The Commission's engineer made an analysis of the methods and cost of operation and submitted an estimate of $10,080 as the reasonable annual operating and maintenance expenses for the immediate future.

The evidence shows that in the appraisement submitted by applicant certain items of property were omitted and provision for the

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reasonable overhead costs arising during construction was not fully made. These matters were included by the Commission's engineer, which accounts for the difference of slightly less than three thousand dollars in the values submitted.

Analysis of the operating expenses for the year 1925 submitted by applicant shows the inclusion of $2 650 for interest on outstanding bonds and notes and $1,142.73 covering legal expenses incurred in connection therewith. These charges are not properly allocated to costs of operation and should be deducted. Based upon the operations for a normal year the evidence indicates that the sum of $10,000 is a reasonable allowance for operating and maintenance expenses.

The gross operating revenues realized by applicant from the year 1922 have been as follows:

1922	$5,932
1923	11,081
1924	5,761
1925	10,900
January 1 to June 1, 1925	5,594
January 1 to June 1, 1926	331

From the above figures it will be seen that during the years 1922 to 1925 applicant has received revenues approximately equivalent to the bare costs of operation and maintenance; during the other two years of this period the revenues have been considerably less than the operating costs. Applicant does not request an increase in the rates now in effect but asks the Commission to establish a monthly minimum or standby charge to stabilize the rates now charged.

From the testimony it appears that practically all consumers now served have private wells from which water is used as far as possible for irrigation, the applicant's system being called upon for service only when the private water supplies become inadequate and when the local rainfall drops below normal. The effect of this uncertain demand for water service from the utility is very clearly reflected in the fluctuation in the revenues received during the past few years as set out above, particularly so in the case of the first part of the present year 1926, in which the late rains so reduced the revenues that for the first five months but $331 worth of water was sold as compared with $5,594 for the corresponding period of the preceding year. Furthermore, the entire amount collected for the above five months of 1926 represented water sold to the water district for the first three months of the year, which service has now been wholly discontinued, revealing a situation in which none of the present consumers purchased any water at all from the utility during this time.

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It is evident that no business can continue to operate and provide proper service upon demand under such uncertain conditions. Admittedly it would be unreasonable to expect a utility to continue to render a standby and emergency service at a loss. The value of this service is measured by the fact that the grower is assured of sufficient water to properly mature his crop and perhaps save it from total failure in periods of drought. If this service is desired by the consumers some efforts should be made to support the utility and patronize it during periods of abundant rainfall as well as in periods of water shortage, otherwise the service cannot be maintained and the utility will sooner or later entirely cease to function. Service can be continued if the consumers will agree to purchase each year from this utility sufficient water to enable it to operate, and this can be more fairly accomplished by the establishment of some form of standby payment similar to that proposed herein by applicant.

Request has been made by applicant that the Commission also order certain revised rules and regulations to be placed in effect governing the distribution of water to consumers. The usual procedure adopted by the Commission in rate cases is to provide in its order for the filing of such rules and regulations by the utility within thirty days after the date of the order. These rules will become effective only when accepted for filing by the Commission. The usual practice therefore will be followed in this instance.

ORDER.

Moorpark Farmers Water Company, a corporation, having made application to the Railroad Commission as entitled above, a public hearing having been held thereon, and the matter having been duly submitted:

It is hereby found as a fact that the rates now charged by the said Moorpark Farmers Water Company, a corporation, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for the service rendered.

Basing its order upon the foregoing finding of fact and upon the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Moorpark Farmers Water Company, a corporation, be and it is hereby authorized and directed to file with this Commission, within twenty days from the date of this order, the following schedule of rates to be charged for service rendered to con-

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sumers in and in the vicinity of Moorpark, Ventura County, on and after January 1, 1927:

Irrigation Rates.

Applicable to irrigation service from company system.

Rates.

Quantity charge:

(a) For water delivered during months of January to September, inclusive, of each year per miner's inch hour $0 02

(b) For water delivered during the months of October, November and December of each year per miner's inch hour 0 01½

Minimum Annual Charge.

Minimum charge per year per acre for land for which service is applied for, or on which water is used:

1. For the first year of service under this schedule $12 00
2. For each consecutive year thereafter in which service is continued to the specific acreage applied for or any portion thereof 9 00
3. Where service to any specific acreage is discontinued for one or more years, upon resumption of service thereto the minimum charge for the first year's service shall apply.

Payments.

1. Minimum annual charge, as above provided, shall be paid in installments as follows:

   $3.00 per acre due and payable upon making application for service.
   One-third (⅓) of minimum annual charge due and payable July 1st.
   Balance of minimum annual charge due and payable December 31st.

2. The minimum charge per year per acre will entitle the consumer to the amount of water which may be purchased under the quantity rates in effect during the time of use as set out above.
3. Additional water used over and above amount to which consumer is entitled under minimum annual charge per acre shall be due and payable for all water used from January 1st to June 30th inclusive, on the first day of July immediately following, and for all water used from July 1st to December 31st inclusive, on the first day of January immediately following.
4. A new applicant who applies for irrigation service on or after the first day of July shall be entitled to service for the balance of the year without payment of the above minimum annual charge and shall be billed for the water used under the quantity rates set out above, provided the water supply is available and provided further that said applicant has not been a consumer using water for irrigation purposes from the company on any other lands owned, leased, rented or otherwise controlled by said applicant at any time during the year service is applied for, and has not been such a consumer at any time during the year immediately preceding the year such service is requested.
5. The miner's inch used herein shall be the equivalent of one-fiftieth (1/50) of a cubic foot per second.

It is hereby further ordered, that Moorpark Farmers Water Company be and it is hereby directed to file with the Railroad Commission within thirty days from the date of this order, rules and regulations to govern the distribution of water to its consumers, said rules and regulations to become effective upon acceptance for filing by this Commission.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-third day of December, 1926.

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DECISION No. 17801.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER ITS PREFERRED AND COMMON CAPITAL STOCK TO THE AMOUNT, IN THE MANNER, AND FOR THE PURPOSES SET FORTH HEREIN.

Application No. 13350.

Decided December 23, 1926.

SECURITIES—STOCK—TO ISSUE.—Pacific Gas and Electric Company authorized to issue and sell $1,000,000 of its 6 per cent cumulative preferred stock and $1,000,000 of its common stock at par, and to use the proceeds to reimburse its treasury for money expended on capital account.

C. P. Cutten, for Applicant.

BY THE COMMISSION.

OPINION.

Pacific Gas and Electric Company asks permission to issue and sell $1,000,000 of its first preferred stock and $1,000,000 of its common stock and to use the proceeds to reimburse its treasury, in part, on account of capital expenditures of $6,631,162.88 made prior to August 31, 1926, and/or to finance, in part, the cost of constructing additions, betterments, extensions and improvements to its facilities and to those of Mount Shasta Power Corporation.

The company is engaged in the business of producing, generating, transmitting, delivering, furnishing and selling to the public electricity and gas for light, heat and power purposes, and of storing, selling and distributing water to the public for domestic uses and for power and irrigation purposes in many towns, cities and counties in northern and central California, and of distributing and selling steam heat in the city of Oakland and the city and county of San Francisco and of operating street railways in the city of Sacramento. It reports that it is impossible to state the original cost of its lands, franchises, water rights, properties, lines, plants and equipment. In paragraph VII (a) of the petition it alleges, however, that

> Applicant has caused a careful appraisal to be made of its properties as they existed on December 31, 1923, is informed and believes and therefore says that, at December 31, 1923, the value of applicant's properties, exclusive of the value of the water rights on the Pacific Gas and Electric Company system, and exclusive of the value of applicant's developed business considered a going concern, and exclusive of the value of applicant's patent rights and franchises, exceeded the sum of $232,000,000.
>
> Since December 31, 1923, applicant has expended large sums of money for the acquisition of property and for the construction, completion, extension and improvement of its facilities and the facilities of said Mount Shasta Power Corporation and therefore says that the value at October 31, 1926, of the properties referred to in the last preceding paragraph, exceeds the sum of $300,000,000.

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Applicant submitted no testimony in support of the allegations contained in paragraph VII(a) of its petition, nor has any determination been made by this Commission in regard to the correctness of such allegations.

The company, as of October 31, 1926, reports outstanding against its properties $113,409,546.91 of stock, consisting of $60,608,531.91 of 6 per cent cumulative preferred stock and $52,801,015 of common stock. In addition it reports that it has subscriptions for $1,832,900 of the preferred stock and $64,100 of the common stock. In making the present request to issue $2,000,000 of stock the company reports the necessity of making expenditures for additions and betterments, and it asks permission to use the proceeds to be secured from the sale of the stock to reimburse its treasury in part and to finance in part the cost of estimated capital expenditures as follows:

Unreimbursed capital expenditures at August 31, 1926, of Pacific Gas and Electric Co. and Mount Shasta Power Corporation (Exhibit "B," Application 13291)	$6,631,162 88
Unexpended balance of capital expenditures authorized at August 31, 1926, by Pacific Gas and Electric Co. (Exhibit "C," Application No. 13291)	7,230,169 53
Estimated cost of new construction, Pacific Gas and Electric Co. for 1926 and 1927 (Exhibit "D," Application No. 13291)	8,000,000 00
Unexpended balance of capital expenditures authorized at August 31, 1926, by Mount Shasta Power Corporation (Exhibit "E," Application No. 13291)	1,126,208 61
Total	$22,987,541 02

The Commission has heretofore authorized Pacific Gas and Electric Company, by orders in Application No. 13291, to use stock and bond proceeds of $605,281.73 and to use the proceeds to be received from the sale of $2,957,100 of preferred stock theretofore authorized to be issued, to meet in part the reported expenditures of $22,987,541.02. Except as to these two amounts the reported expenditures have not been paid or provided through the issue of securities so it seems to us that there is an ample margin against which we may authorize the issue of the additional $2,000,000 of stock applied for in this application. Such authority should not be construed, however, as an approval of the total expenditures of $22,987,541.02.

The company has made no arrangements to sell its stock but proposes to offer the $2,000,000 of stock to its employees, exclusive of its executive officers, in units consisting of one share of preferred stock and one share of common stock at a price equal to the total par value of the shares composing the unit, no stock to be sold except in units, and payment to be made only in monthly installments under contracts extending over a period of about three years. The testimony herein indicates that under the company's plans the employees will have the right to cancel their subscriptions, in which case the total amounts

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paid in will be returned, with no interest, however, for the first twelve installments, but with interest at the rate of three per cent per annum on the succeeding twelve installments and at the rate of four per cent on all the remaining installments. In the event of death, resignation, discharge or pension, installments will be returned with interest at six per cent. The terms and conditions under which the company intends to sell the $2,000,000 of stock are more fully set forth in applicant's Exhibit No. 1 filed in this procedure.

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be paid or provided through the issue of such stock is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue, sell and deliver on or before December 31, 1930, at not less than the par value thereof, $1,000,000 of its 6 per cent cumulative preferred stock and $1,000,000 of its common stock and to use the proceeds to reimburse its treasury in part on account of capital expenditures of $6,631,162.88 made prior to August 31, 1926, and, or to finance in part such cost of the extensions, additions, betterments and improvements to its facilities and to those of Mount Shasta Power Corporation described in Exhibits "B," "C," "D" and "E" filed in Application No. 13291 as is properly chargeable to fixed capital accounts under the uniform systems of accounts prescribed or adopted by this Commission.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof and, further, that applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-third day of December, 1926.

DECISION NO. 17803.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA APPROVING APPLICANT'S PROPOSED ISSUANCE OF CERTIFICATES FOR

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SHARES OF ITS FIRST PREFERRED STOCK AND COMMON STOCK OF THE PAR VALUE OF TWENTY-FIVE DOLLARS IN CONFORMITY WITH ITS AMENDED ARTICLES OF INCORPORATION.

Application No. 13369.

Decided December 23, 1926.

SECURITIES—STOCK—TO REISSUE AND EXCHANGE.—Pacific Gas and Electric Company authorized to issue and deliver in exchange for outstanding stock of $100 par value per share, new stock, both common and first preferred, at $25 a share, in the ratio of four shares of stock of $25 par value for every share of stock of $100 par value.

C. P. Cutten, for Applicant.

BY THE COMMISSION.

OPINION.

Pacific Gas and Electric Company asks the Commission to make an order approving the issuance and delivery, upon the surrender of outstanding certificates for first preferred and common stock of the par value of $100 a share, of new certificates for an equal amount in par value of the same kind of stock of the par value of $25 a share, and also authorizing the issue, for all first preferred and common stock of the par value of $100 a share sold or to be sold under decisions of the Commission now in effect but not yet issued, of certificates for an equal amount in par value of the same kind of stock of the par value of $25 a share.

It appears that applicant's articles of incorporation heretofore have provided for an authorized capital stock of $160,000,000 consisting of $79,900,000 of 6 per cent cumulative first preferred stock, $100,000 of 6 per cent cumulative original preferred stock and $80,000,000 of common stock, divided into shares of the par value of $100 each. The record herein shows that on October 11, 1926, applicant's stockholders voted to amend its articles of incorporation by eliminating therefrom the provisions relating to the original preferred stock and dividing the authorized capital stock of $160,000,000 equally into first preferred and common stock and increasing the total number of shares of stock from 1,600,000 of the par value of $100 each, to 6,400,000 of the par value of $25 each, the total amount of the authorized stock remaining unchanged. Article six of the company's articles of incorporation, as amended, provides in part as follows:

> Each share of first preferred stock of this corporation of the par value of one hundred dollars ($100.00) heretofore issued or subscribed for shall henceforth be the equivalent for all purposes, of four (4) shares of the first preferred stock of this corporation of the par value of twenty-five dollars ($25.00) each; and, upon the surrender for that purpose of outstanding certificates for shares of first preferred stock of the par value of one hundred dollars ($100.00) each, new certificates for an equal amount in par value of shares of first preferred stock of the par value of twenty-five dollars ($25.00) each shall be issued to the persons entitled thereto.
>
> Each share of common stock of this corporation of the par value of one hundred dollars ($100.00) heretofore issued or subscribed for shall hence-

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forth be the equivalent, for all purposes, of four (4) shares of the common stock of this corporation of the par value of twenty-five dollars ($25.00) each; and upon the surrender for that purpose of outstanding certificates for shares of common stock of the par value of one hundred dollars ($100.00) each, new certificates for an equal amount in par value of shares of common stock of the par value of twenty-five dollars ($25.00) each shall be issued to the persons entitled thereto.

As of October 31, 1926, the company reports its capital stock outstanding and subscribed for, as follows:

First preferred stock.			
Outstanding:			
Shares—par value		$60,607,250 00	
Warrants for fractional shares		1,281 91⅔	
Subscribed but not issued		1,832,200 00	
Fully paid but not yet issued		700 00	
Total			$62,441,431 91⅔
Common stock.			
Outstanding:			
Shares—par value	$68,642,333 33		
Less held by subsidiaries	15,848,433 33		
Balance		52,793,900 00	
Warrants for fractional shares		7,115 00	
Subscribed but not issued		64,100 00	
Total			$52,865,115 00

In addition, the company reports that on October 31, 1921, it had in its treasury, neither sold nor subscribed for, $2,033,100 of first preferred stock, the issue of which was authorized by Decision No. 16473, dated April 12, 1926, in Application No. 12714, and $267,500 of common stock, the issue of which was authorized by Decision No. 15874, dated January 19, 1926, in Application No. 12277. In this connection it reports, however, that it does not intend to offer for subscription, or to sell or issue any part of the $267,500 of common stock.

In reducing the par value of the shares of stock applicant reports that in its opinion the smaller stock units will add to the marketability of its stock and facilitate its distribution among investors in a greater degree than at present and tend to lower the cost of the new capital required from year to year to pay for additional facilities that may be needed. In addition, it is thought that a wider distribution of applicant's stock will follow.

ORDER.

The Railroad Commission having been asked to make an order approving the issuance and delivery, and authorizing the issue of stock, by Pacific Gas and Electric Company, as indicated in the foregoing opinion, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the application should be granted, as herein provided; therefore,

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The Railroad Commission hereby approves the issuance and delivery by Pacific Gas and Electric Company, from and after the filing with this Commission of a certified copy of applicant's articles of incorporation, as amended by its stockholders and board of directors in the month of October, 1926, and upon the surrender for that purpose of outstanding certificates for either first preferred or common stock of the par value of one hundred dollars ($100) per share, of new certificates for an equal amount in par value of the same kind of stock of the par value of twenty-five dollars ($25) per share, all as provided in applicant's articles of incorporation, as amended in October, 1926.

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue, for all first preferred and common stock of the par value of $100 a share sold or to be sold under orders of the Railroad Commission in Applications Nos. 6229, 8104, 8550, 10182, 10361, 10361 supplemental, 10855, 12261, 12277, 12413 and 12714, but not issued prior to the time of filing with this Commission a certified copy of its articles of incorporation, as amended during October, 1926, certificates for an equal amount in par value of the same kind of stock of the par value of $25 a share.

It is hereby further ordered, that the order in Decision No. 16473, dated April 12, 1926, in Application No. 12714, be and it hereby is modified so as to permit Pacific Gas and Electric Company to sell the first preferred stock authorized to be issued and sold by said decision, but remaining unsold upon the effective date of this order at a price per share which shall be not less than one-fourth of the minimum selling price specified in said order.

The authority herein granted is subject to the following conditions:

1. The authority herein granted will become effective upon the filing with this Commission of a certified copy of applicant's articles of incorporation, as amended by the stockholders and board of directors of Pacific Gas and Electric Company in the month of October, 1926.

2. Applicant shall file with the Commission quarterly reports showing the amount and classes of stock issued, under the authority herein granted, in exchange for outstanding stock and the expenses incurred to effect said exchange, the first report to be filed on or before April 30, 1927, to cover the period from the effective date of this order to and including March 31, 1927, and subsequent reports to be filed within thirty days after the end of the quarter covered by the report.

Dated at San Francisco, California, this twenty-third day of December, 1926.

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DECISION No. 17810.

IN THE MATTER OF THE APPLICATION OF ORVAL OVERALL AND E. L. ASKIN, DOING BUSINESS UNDER THE NAME AND STYLE OF SEQUOIA NATIONAL PARK STAGE COMPANY, FOR AUTHORITY TO CHANGE ROUTING OF STAGE LINE UNDER EXISTING CERTIFICATES.

Application No. 10473.

IN THE MATTER OF THE APPLICATION OF SEQUOIA AND GENERAL GRANT NATIONAL PARKS COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTOMOBILE PASSENGER AND BAGGAGE (HAND) SERVICE BETWEEN FRESNO, VISALIA, EXETER AND SEQUOIA NATIONAL PARK (GIANT FOREST).

Application No. 12709.

Decided December 28, 1926.

TRANSPORTATION—AUTO STAGES—TO REROUTE.—Sequoia National Park Stage Company (Orval Overall and E. L. Askin) authorized to reroute that portion of auto stage line operating between Kaweah and the western boundary of Sequoia National Park, to run over the new General's Highway to the Southern boundary of the park.

CERTIFICATE—AUTO STAGES.—Application of Sequoia and General Grant National Parks Company to operate between Fresno, Visalia, Exeter, and Sequoia National Park, denied.

Guyn H. Baker and *H. M. Wade*, for Applicants in Application No. 10473.

Richard T. Eddy and *Oakley K. Motton*, for Applicant in Application No. 12709.

Earl A. Bagby, for California Transit Company, Protestant in Application No. 12709.

H. B. McClure, for Visalia Chamber of Commerce.

BY THE COMMISSION.

OPINION.

By the supplemental application filed in Application No. 10473, Sequoia National Park Stage Company seeks a supplemental order, authorizing the rerouting of its passenger stage operations so as to abandon that portion of its present route between Kaweah and the entrance on the western boundary of Sequoia National Park, and to operate from Kaweah via Hammond to a point where the new General's highway enters the park on its southern boundary. In justification for the proposed rerouting, applicants allege that the old road entering the park from the west has been abandoned and replaced by a new, better and more direct road, which has been constructed from Hammond to Giant Forest.

By Application No. 12709, the Sequoia and General Grant National Parks Company, a corporation, originally sought a certificate of public convenience and necessity authorizing the operation of an automobile stage service for the transportation of passengers and hand baggage between Fresno, Visalia and Exeter and the Sequoia National Park boundary near Alder Creek Ranger Station, via Lemon Cove, Three Rivers, Kaweah Bridge, Hammond and Middle Fork road (now

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known as General's highway). By an amendment filed prior to the hearing, applicant eliminated Fresno as a terminal and proposes to operate to and from Visalia and Exeter only, the original application remaining unchanged in all other respects. Applicant alleges that it has recently been granted by the Department of the Interior an exclusive franchise to operate all concessions within the park for a period of twenty years and, in order to accommodate the public, it desires to operate a service from the rail terminals to the park. The proposed equipment will consist of one 11-passenger White bus. Accompanying the application are the proposed tariff of fares and time schedules, together with a certified copy of applicant's articles of incorporation.

Public hearings were held before Examiner Austin at Visalia, when both of these proceedings were consolidated for hearing and decision, evidence was offered, the matters were submitted upon briefs, which have since been filed, and they are now ready for decision.

We shall first consider the supplemental application of Sequoia National Park Stage Company (hereinafter referred to as the Sequoia Company) to permit the rerouting of its lines.

At the outset, our jurisdiction to entertain this application has been challenged by the Sequoia and General Grant National Parks Company (hereinafter referred to as National Parks Company), it being claimed that the application in substance seeks the abandonment of part of its line and a certificate authorizing the operation over new territory, rather than a rerouting of its service. It is contended by the National Parks Company that a new application should have been filed, accompanied by the statutory filing fee of $50. Section 5 of the Auto Stage and Truck Transportation Act, as amended by Statutes of 1923, chapter 310, provides that no transportation company shall begin to operate on the public highways without first obtaining a certificate of public convenience and necessity and that "Each application for a certificate of public convenience and necessity * * * must be accompanied by a fee of $50."

We believe it apparent that this section applies only to applications for certificates and not to applications for the rerouting or abandonment of existing service. In the instant case, the Sequoia Company does not seek to change its ultimate objective, viz, the transportation of passengers to the Park, but only the means of arriving at this destination, the change being made necessary by the abandonment of the old road and the substitution of a new one. This will result in the cessation of service over a portion of the old road about five miles in length. Under a fair and reasonable interpretation of the statute, we can not hold that a new certificate is required to meet this situation, consequently protestant's objection must be overruled.

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The National Parks Company has also objected to the consideration of the supplemental application, upon the ground that the applicant is not properly before the Commission.

In the original Application No. 10473, filed September 16, 1924, E. L. Askin and Orval Overall, doing business as copartners under the name of Sequoia National Park Stage Company, are named as applacants and by Decision No. 14164 in this application dated October 10, 1924, a certificate was granted to these persons as copartners. In the supplemental application their names appear in the title as being engaged in business under the name and style of Sequoia National Park Stage Company, but no allegation has been made in the body of the application with respect to the parties. Mr. Askin testified that the Sequoia National Park Stage Company was an existing partnership composed of Orval Overall and E. L. Askin, each owning one-half of the company's franchise. Mr. Askin admitted that the annual report of the Sequoia National Park Stage Company for the year 1923, which he himself verified, set forth (on page 10) that E. L. Askin owned 51 per cent of the company, W. J. Ogilvie 24½ per cent, and F. H. Ogilvie 24½ per cent, and that the annual report for 1925 did not contain the names of the partners nor their proportionate shares, and he further stated that on December 31, 1925, when this report was filed, neither W. J. Ogilvie nor F. H. Ogilvie nor any one other than applicant and Orval Overall had any interest in the company. Mr. Orval Overall, called by the National Parks Company, testified that Askin purchased his interest in the Sequoia Company's stage line during 1920, a lot in Visalia having been transferred from Askin to Overall in full settlement of his entire interest in the partnership. At another point in the testimony, he stated there were still some adjustments to be made in respect to this settlement, but that the matter had not yet been determined. He has attended hearings before the Commission in matters pertaining to the company and has signed papers. He stated that when the agreement for dissolution had been made with Mr. Askin he undertook to do everything necessary, in order legally to effect the transfer of the property to Askin, but that these formalities had not yet been consummated. At most, the evidence shows an agreement between Overall and Askin to dissolve the partnership, which has been partially carried into effect, but through neglect or oversight of the parties the dissolution of the partnership has not been formally accomplished.

We are concerned with the status of the partnership only in so far as it relates to its capacity to maintain this application; all questions concerning the relationship between the partners or any accounting that may be necesary must be determined by the courts. Nor are we here required to determine the effect of such conduct upon the Sequoia

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Company's operative rights, this being a matter which should form the subject of a separate complaint. In our judgment the evidence does not show that the partnership is not competent to maintain this application. Accordingly, the objection of the National Parks Company will be overruled and we shall now consider the merits of the application.

A. L. Askin described the present route followed by the Sequoia Company and the route proposed to be substituted. The road formerly used within the park is narrow and steep, stage operations over it having been difficult and expensive. Within the past four years the government and the state authorities have built a new road known as the General's highway, extending from Three Rivers to Giant Forest, which is quite wide and with easy grades. The application contemplates the abandonment of service between Kaweah and the western boundary of the park (no residents being affected by this save three ranchers and their families who have consented to the cessation of the service) and stages will be rerouted over the new road via Hammond to the park boundary, reducing the distance between Three Rivers and Giant Forest by about eight miles. Within the park the old road will be used only for outbound travel whenever traffic is congested.

The Sequoia Company commenced operations between Lemon Cove and the park in June, 1919; its service was extended westerly to Visalia pursuant to Decision No. 14164, in Application No. 10473, dated October 10, 1924, upon the abandonment of passenger operations by the Visalia Electric Railway; and operations between Visalia and the park were commenced about June 1, 1925, continuing until the close of the season, September 30, 1925. Prior to June, 1925, the Al Askin Stage Company commenced operations, pursuant to Decision No. 14164, in Application No. 10460, between Visalia and Lemon Cove, this service being designed to replace the local operations of the Visalia Electric Railway, and continued until August, 1925, when it ceased its operations with the consent of this Commission. The two lines were operated separately, each maintaining a distinct service. At present the Sequoia Company is operating over the proposed new road under temporary permission granted in this proceeding by the Commission's Decision No. 16768, dated May 24, 1926. In connection with its through service the Sequoia Company operated a White 20-passenger bus between Visalia and Lemon Cove, where passengers destined to the park were transferred to touring cars, the park authorities having objected to the operation of the bus within the park. This bus was originally owned by the Al Askin Stage Line, but when the latter became defunct it was transferred to the Sequoia Company. Prior to 1926 the Sequoia Company conducted its transportation service within the park under annual permits granted by the Department of the Interior, but this authority was not renewed in 1926, due to the fran-

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chise then granted by the department to the National Parks Company. Applicant also conducts a stage service to Mineral King and in addition handles express, mail and freight, the latter service embracing a general trucking business. In addition to the bus, applicant owns several touring cars, and can arrange for further equipment to accommodate the park passengers.

Mr. Askin testified that if the Sequoia Company were derived of its park passengers it will operate at a loss, since there is not sufficient local business to maintain the service. Considerable testimony was introduced relative to applicant's revenues and the number of passengers handled, which indicates that a substantial part of applicant's income is derived from handling passengers destined to the park, and which supports his testimony that applicant can not afford to lose this business. This witness also described his negotiations with the National Parks Company relative to the acquisition of the Sequoia Company's line, which failed of consummation. H. A. Hunkins, vice president and general manager of the National Parks Company, stated that there was not room for two transportation companies operating between Visalia, Exeter and Giant Forest, and admitted that in his judgment there was not sufficient local business between Visalia and the park line to support a stage service. Superintendent John R. White, of Sequoia National Park, testified that the Sequoia Company's service had been satisfactory, other than the transfer of passengers at Lemon Cove, the department authorities having refused to sanction the operation of the 20-passenger bus within the park. He admitted, however, that he had heard no complaints from passengers concerning this transfer. Mr. C. W. Berry, proprietor of the Johnson Hotel at Visalia, testified that personally he would prefer a through service to the park, but had heard no passengers complain of the service received. Another witness, H. J. Beidleman, secretary of the Visalia Chamber of Commerce, testified relative to the transfer of passengers at Lemon Cove, stating, however, that he had heard no complaints from passengers.

Relative to Application No. 12709, of the National Parks Company, it appears that this applicant is a corporation organized to operate a general resort business in Sequoia and General Grant national parks, holding a franchise from the Department of the Interior authorizing it to conduct such business within these parks for a term of 20 years from March 27, 1926. It proposes to conduct a through transportation service for passengers and baggage between Visalia, Exeter and Giant Forest, excluding express and all local service between points outside the park, Mr. Hunkins expressing the opinion that the local travel and the eastern tourist travel could not conveniently be handled

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in the same stages. The service is designed primarily to accommodate visitors and encourage the development of the park. Applicant proposes to use one 11-passenger bus of the Yellowstone type, so designed as to permit the removal of the top, in order that passengers may observe the scenery, together with such additional equipment as the development of traffic may require, applicant having sufficient financial ability to provide an adequate and dependable service. Arrangements have been made with various tourist agencies throughout the country for the sale of tickets over the proposed stage line. This applicant offered in evidence resolutions adopted by the Exeter and Visalia chambers of commerce, the former favoring this application, and the latter endorsing an adequate through transportation service from Visalia via Exeter to the park. Superintendent White also testified to the necessity for a through service from valley points to Giant Forest. Pending the outcome of this proceeding, applicant has initiated a hotel bus and sightseeing service between Visalia and the park, operated solely for the convenience of applicant's patrons.

Several witnesses were called by the Sequoia Company in support of its protest against the application of National Parks Company. In substance these witnesses testified that the service of the Sequoia Company had been adequate and dependable; that they had heard no complaint relative to the transfer of passengers at Lemon Cove; and some commented favorably upon the express service and also the freight service which, however, is not involved here. Witnesses from Three Rivers testified that this point was a center for tourists embarking upon mountain trips, many of them hiring saddle horses and mules from persons engaged in this business there. They stated that if the installation of through service to the park by National Parks Company should result in the abandonment of local service by the Sequoia Company, thereby depriving Three Rivers of stage service, tourists desiring to reach that point would be put to great inconvenience, and the packing and saddle horse business at Three Rivers would be seriously affected, one witness stating that this business would probably be diverted to the owner of a similar concession within the park. Some of them testified they had observed no tendency on the part of tourists to avoid mingling with local travelers, but, on the contrary, tourists had shown a disposition to be quite sociable.

The California Transit Company protested the granting of any certificate to National Parks Company, unless the latter should agree to the publication of joint rates with protestant from all points on its line. This Mr. Hunkins objected to, stating that although no understanding had been had with the railroad companies for refusing such concurrences to the stage line, nevertheless until the latter was in a

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position to develop as much traffic as the railroad this applicant could not agree to the granting of joint rates, stating further that this was a matter which could not be determined now, but must be considered at the proper time. He testified that as a rule the patrons of the park do not use the highway stages, most of them originating from eastern points. E. A. Bagby, secretary of California Transit Company, described in detail the stage system operated by his company, its equipment and schedules, and stated that joint rates had been published with many other connecting stage lines. The former manager of the concessions at Giant Forest, between 1920 and 1923, inclusive, testified that during that period a large proportion of the guests registered at the park originated in California; the agent of California Transit Company at Exeter testified that from four to five passengers daily transferred from the Southern Pacific trains and the California Transit stages to the Sequoia Company's stage line; and Arthur Granger, assistant manager of the Hotel Johnson at Visalia, stated that his observation indicated that rail and stage passengers arriving at Visalia were about evenly divided. Superintendent White testified that the park authorities did not favor discrimination against any class of passengers arising from the method of transportation employed, and he would favor the publication of joint rates with stage lines if necessary to prevent discrimination. Mr. Berry, one of the proprietors of the Johnson Hotel, testified that a large proportion of the hotel patrons arrived in private automobiles and on stages, the train service having steadily declined in recent years. It also appears from the testimony of Mr. Askin that he has published joint rates with the Southern Pacific, the Santa Fe and the California Transit Company.

The evidence indicates that the Sequoia Company for many years has conducted an adequate and dependable service, handling passengers to Sequoia National Park. It is true that this applicant can no longer maintain a through service to points within the park, but must now stop at the park boundary. This, however, is due to circumstances beyond its control, operations within national parks being exclusively within the jurisdiction of the federal government. The National Park Company can not well urge this circumstance against the Sequoia Company, for the former is largely responsible for this condition, this company itself having acquired the privilege of conducting the transportation service within the park. Moreover, the department itself has excluded the Sequoia Company and by so doing is estopped to complain of that company's inability to render a through service. The evidence indicates that the Sequoia Company can not survive upon the local traffic alone between Visalia and the park boundary, and it is apparent that it will be stripped of its through passenger traffic if a

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certificate is granted to the National Parks Company. The Commission believes that in view of the adequate service rendered in the past by the Sequoia Company and which it still renders in so far as it is able to do so under existing conditions, it is not sound policy to permit the inauguration of a competitive service which will ultimately drive this line into bankruptcy. Furthermore, the needs of such communities as Three Rivers, Lemon Cove and other points, which would suffer by the cessation of local service are entitled to our consideration. Under the circumstances, the application of the Sequoia Company for a re-routing of its service will be granted, and the application of the National Parks Company for a certificate of public convenience and necessity will be denied.

Upon full consideration of the evidence, we are of the opinion and hereby find as facts:

1. That public convenience and necessity require the re-routing by the Sequoia National Park Stage Company of its service, as prayed for in the supplemental application herein;

2. That public convenience and necessity do not require the operation by Sequoia and General Grant National Parks Company, a corporation, of an automobile stage service for the transportation of passengers and hand baggage as a common carrier between Visalia and Exeter, and Sequoia National Park boundary near Alder Creek Ranger Station, via Lemon Cove, Three Rivers, Kaweah Bridge, Hammond and Middle Fork road (now known as General's highway).

An order will be entered accordingly.

ORDER.

A public hearing having been held in the above entitled applications, the matters having been duly consolidated and submitted, the Commission being now fully advised and basing its order on the findings of fact which appear in the opinion preceding this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the operation by Sequoia and General Grant National Parks Company, a corporation, of an automobile stage service for the transportation of passengers and hand baggage as a common carrier between Visalia and Exeter, and Sequoia National Park boundary, near Alder Creek Ranger Station, via Lemon Cove, Three Rivers, Kaweah Bridge, Hammond and Middle Fork road (now known as General's highway); and

It is hereby ordered, that the application of said Sequoia and General Grant National Parks Company (Application No. 12709) be and the same is hereby denied.

It is hereby further ordered, that Orval Overall and E. L. Askin, copartners doing business under the firm name and style of Sequoia

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National Park Stage Company, applicants in the supplemental application filed in Application No. 10473 herein, be and they hereby are authorized to abandon the automobile stage service heretofore conducted by said applicants between Kaweah and the former entrance to Sequoia National Park on the westerly boundary thereof, and to re-route said service so as to conduct and operate the same, in connection with their present service from Visalia and Exeter, from a point on their present route between Three Rivers and Kaweah, known as Kaweah Bridge and thence via Hammond and over and along the General's highway to the present entrance to Sequoia National Park upon the southerly boundary of said park.

Dated at San Francisco, California, this twenty-eighth day of December, 1926.

DECISION No. 17820.

IN THE MATTER OF THE APPLICATION OF NAPA UNION HIGH SCHOOL DISTRICT OF NAPA COUNTY FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A PUBLIC STREET OR CROSSING OVER THE TRACKS OF THE SAN FRANCISCO, NAPA AND CALISTOGA RAILWAY.

Application No. 12338.

Decided December 30, 1926.

GRADE CROSSING—ELECTRIC RAILROAD—TO CONSTRUCT.—Application denied without prejudice to the filing of a similar application by the board of supervisors of Napa County.

L. E. Johnston, Deputy District Attorney, for Napa Union High School District.

C. E. Brown, for San Francisco, Napa and Calistoga Railway.

BY THE COMMISSION.

OPINION.

In this application the Napa Union High School asks permission to construct a public crossing leading from Jefferson street into the school grounds at grade across the tracks of the San Francisco, Napa and Calistoga Railway.

A public hearing was held at Napa on September 22, 1926, before Examiner Austin, at which time the matter was submitted. At the hearing the application was amended at request of applicant to cover either the installation of a private crossing or a public crossing, depending on which the Commission considered legal and proper in the premises.

The Napa Union High School District has forty acres of ground on the northwest corner of Lincoln street and Jefferson street, also known as Calistoga avenue, near the northwesterly city limits of Napa. The high school faces on Jefferson street, but has two side entrances leading from Lincoln avenue to the building, one of which is close to the inter-

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section of Lincoln and Jefferson streets. The tracks of the electric railroad are parallel to Jefferson street and lie between the paved portion of that street and the high school grounds. The railroad owns a thirty foot strip of right of way for a distance of about 600 feet north of Lincoln avenue. North of this strip the railroad lies in the right of way of Jefferson street which is a county highway and outside of the city limits. The main line of the railroad lies in Jefferson street outside of the strip of right of way above mentioned, the strip of right of way being occupied by a siding.

The proposed crossing is about 780 feet north of the center line of Lincoln avenue, and is north of the 600-foot strip of private right of way and is entirely included within the right of way of the county road.

The proposed crossing is desired in order to round out and complete the driveways on the school grounds and furnish a means of ingress and egress to the north to and from the grounds. Under present conditions vehicles must turn around on the grounds which causes confusion and congestion.

The high school has an average daily attendance of 460. In addition, night school is held in the school house five nights a week with an attendance of from 100 to 150 and public meetings are also held weekly at night with an attendance of about 1000 persons.

The school hours are from 8.30 a. m. to noon and from 1 p. m. to from 3 to 5 p. m. Trains are operated in this vicinity at about 8.20, 8.55 and 11.13 a. m. and at 12.16, 1.26, 3.12 and 4 p. m. Night trains are operated northbound at 7.03 and 9.19 p. m. and southbound at 8.06 p. m. There are nine trains each way daily, of which seven are passenger trains and two are freight trains. There are also about six extra trains per week. There is a station stop about two blocks south. At the site of the proposed crossing northbound trains have a speed of from 15 to 18 miles per hour and southbound trains a speed of from 20 to 25 miles per hour.

The view of the proposed crossing is unobstructed for traffic in both directions but traffic on Jefferson avenue is parallel to the railroad and a driver must look back to see cars approaching the crossing from the same direction. Under ordinary conditions standard crossing sign protection would appear all that would be necessary for a crossing of this character, but to the kind of traffic here and the fact that trains are operated over this track at approximately the time of opening and closing school, it would appear to require further protection during certain hours. The high school authorities stated that a man might be made available to protect the crossing during the hours school is taking up or letting out and such protection seems advisable.

The railroad company offered no objection to the opening of the crossing and it appears to the Commission that the application should be granted if the Commission can legally do so.

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Section 43 of the Public Utilities Act vests in the Commission exclusive jurisdiction to determine applications for the construction of any "public road, highway or street" across the track of any railroad corporation at grade, and prohibits the construction of such crossing without the Commission's sanction. Rule VIII, subdivision 7 of our Rules of Procedure provides that applications for the installation of a crossing of a public highway across a railroad must be made by the proper municipal, county, state or United States authorities.

The applicant, however, does not rely upon these provisions, but contends that it is entitled to this crossing under the provisions of section 485*a*., Civil Code, which reads as follows:

> The owner or owners of any lands along or through which any railroad is constructed or maintained, shall have the right to such farm or private crossings over such railroad and railroad right of way as may be reasonably necessary or convenient for ingress to or egress from such lands, or in order to connect such lands with other adjacent lands of such owner or owners; and the owner or operator of such railroad shall construct and at all times maintain such farm or private crossing in a good, safe and passable condition; provided, that the Railroad Commission shall have the authority to determine the necessity for such crossing and the place, manner and conditions under which such crossing shall be constructed and maintained, and shall fix and assess the cost and expense thereof.

The proposed crossing will not lead to any public road lying west of the railroad track, but will connect with the driveway through the school grounds, and, as has been stated, is situated entirely within the exterior boundaries of the county highway right of way, lying between the paved portion of the highway and the high school grounds. Notwithstanding this fact, no public crossing exists nor can exist until the approval of the Commission has first been obtained. Therefore until the crossing has received our sanction, the public has no right to cross the tracks for the purpose of entering or leaving the school grounds. This is necessarily so because of the questions of public necessity and public hazard which must first be determined before any crossing of a public highway over a railroad track may be established. Whether or not the crossing is public or private depends upon the nature of its use. Section 485*a* of the Civil Code was intended primarily to grant to property owners the means of ingress to or egress from their land where the same has been cut off by a railroad line; when established it will be used only by the owner and his family, their visitors or those having business with them, such a crossing not being designed for use by the general public, the owner having the right to exclude all persons from the crossing.

From the record in this case it appears that no such restriction will be imposed upon the use of the proposed crossing, since it will be used by the general public without any limitation whatever. While it is

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true that those who will use it to the greatest extent consist of pupils, teachers and those attending the meetings regularly held at the school, still there will be no inhibition of its use by anyone desiring to enter the school grounds. The determinative factor is that the crossing is open to use by all persons without any restriction; not the particular class or classes of persons who as a practical matter will make use of the crossing. It is well known that many public crossings are principally used by certain classes of persons, such as crossings serving farming districts, which are used primarily by farmers, or crossings serving large industrial plants, which are used principally by those having business with them, but, nevertheless, such crossings may be used by any person. We, therefore, conclude that the proposed crossing is a public crossing within the meaning of section 43 of the Public Utilities Act and not a private crossing, as contemplated by section 485*a* of the Civil Code.

From the record in this proceeding, it is apparent to the Commission that the applicant, Napa Union High School District of Napa County, is not the proper applicant to initiate this proceeding for although it has exclusive control over the high school grounds and can lay out and establish driveways thereon, it has no legal authority to provide in the first instance for the construction or maintenance of a highway crossing lying within the boundary of the public highway, the board of supervisors of Napa County being the proper body to establish the crossing upon authority of this Commission. Since the board is not before us in this proceeding, no valid order can be made herein, requiring it to establish such crossing or to contribute county funds to its construction and maintenance. While it is true that in a proceeding brought by the board of supervisors the applicant herein may be required to contribute its funds to the establishment and upkeep of this crossing, it is apparent that it has no power to consent in the first instance to the construction of a crossing upon property in which it is not interested and over which it has no control. In view of the conclusion we have reached, the application will be dismissed without prejudice to the institution of a new proceeding by the county board of supervisors.

An order will be entered accordingly.

ORDER.

The Napa Union High School District of Napa County, having made application for an order authorizing the construction of a public crossing over the tracks of San Francisco, Napa and Calistoga Railway at a location near the city of Napa, Napa County, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision; therefore

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It is hereby ordered, that said application be and the same is hereby dismissed without prejudice to the filing of a similar application by the board of supervisors of the county of Napa; and it is hereby further ordered, that the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this thirtieth day of December, 1926.

DECISION No. 17824.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, AND NEVADA IRRIGATION DISTRICT, A DULY CREATED IRRIGATION DISTRICT, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE FORMER TO SELL AND CONVEY AND THE LATTER TO PURCHASE AND ACQUIRE THE PROPERTIES REFERRED TO IN THIS APPLICATION; ETC.

Application No. 13366.

Decided December 30, 1926.

TRANSFER—WATER UTILITY—IRRIGATION DISTRICT.—Pacific Gas and Electric Company authorized to sell to Nevada Irrigation District its Deer Creek Ditch and distributing system for the sum of $350,000.

Charles P. Cutten, for Pacific Gas and Electric Co.

C. F. Metteer, for the Nevada Irrigation District.

Frank R. Wehe, for the Eagle Bird Gold Mining Co.

BY THE COMMISSION.

OPINION.

This is an application on the part of the Pacific Gas and Electric Company, a public utility corporation, to sell, and Nevada Irrigation District to purchase certain described ditches, canals, reservoirs, conduits, tunnels, pipe lines, rights of way, and other structures and facilities, for the diversion and distribution of water under a system supplying water for agricultural, domestic and industrial purposes in the county of Nevada and within the boundaries of the Nevada Irrigation District, and also within certain areas lying adjacent to or surrounded thereby, but not included within said district, together with certain waters and the right to take and divert same—all within the limits of Nevada County—and lying generally within the water shed of that certain stream known as Deer Creek, which properties are definitely set forth and described in Exhibit "B" and "C" attached to the petition herein.

A hearing upon this matter was held before Examiner Wheat at Grass Valley, at which time it appeared that the properties desired to be transferred constitute the water distribution properties of the Pacific Gas and Electric Company's system located in Nevada County

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below that Company's Deer Creek power house. Reports dealing with the estimated value of the properties proposed to be transferred on the part of Fred H. Tibbits for the Nevada Irrigation District, and on the part of the engineering department of the Pacific Gas and Electric Company were filed at this hearing. It is proposed by the parties to transfer these properties for the price of three hundred and fifty thousand dollars ($350,000), a sum substantially lower than the valuation set forth in the company's report, but substantially higher than that set forth in Mr. Tibbitt's estimate.

The testimony shows that the directors of the district and the officials of the Pacific Gas and Electric Company now believe that the price of three hundred and fifty thousand dollars ($350,000) above mentioned is a fair and reasonable price to be paid by the district for the properties intended to be conveyed. In our opinion the testimony disclosed that neither the consumers nor the public generally would be injured or inconvenienced by said transfer. The only protest registered at the time of the hearing, or otherwise, was that of the Eagle Bird Gold Mining Company, whose sole interest appears to be the protection of alleged water rights on the South Fork of the Yuba River. Inasmuch as neither the properties nor waters or water rights herein proposed to be transferred affect in any manner any water rights upon the South Fork of the Yuba River, it is our opinion that claimants to such rights could not be injured nor could their position be changed or hampered in any manner by the granting of the present application. In any event, nothing that this Commission could do in the premises could deleteriously affect the right of any claimant to waters or water rights inasmuch as it is clear that the sole province of this Commission in the present instance is to authorize or decline to authorize the sale of whatever properties may in fact belong to the selling company. We can not authorize such a company to transfer properties which it does not own, nor could we affect the title to water rights owned or claimed by their parties.

It is our opinion that the sale herein proposed will not injuriously affect the interests of the public or any portion thereof or the consumers now served from the properties herein proposed to be transferred, and it is our further opinion that the sale herein proposed should be consummated in the public interest. Our order will therefore authorize the transfer of the properties mentioned in Exhibit "B" and "C" of the petition herein at the price stated above, which we hereby find to be a fair and reasonable price to be paid for said properties.

It is, of course, fundamental that the transfer of properties which are subject to public utility obligations does not put an end to these obligations, or any of them. The Irrigation District comes in this

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proceeding definitely accepting, and stating that it desires to accept all obligations which now or in the future might rest upon the Pacific Gas and Electric Company in connection with its public utility service of water from properties proposed to be transferred, and in this connection the Irrigation District has filed with this Commission a resolution reading in part as follows:

> That in the event of the Railroad Commission of the State of California making its order approving such sale of properties as is contemplated by said application No. 12365 pending before the Railroad Commission of the State of California, then upon the transfer by good and sufficient deed of all of said properties described or referred to in said application, free and clear of all liens and incumbrances, to Nevada Irrigation District said Nevada Irrigation District undertakes and agrees to assume all of the obligations resting upon said Pacific Gas and Electric Company to supply water from the said system being conveyed by the said Pacific Gas and Electric Company to Nevada Irrigation District, to all of the territory, both within and without the boundaries of Nevada Irrigation District that may reasonably be served by the system conveyed, and also to fully assume and carry out all obligations placed upon Nevada Irrigation District under and by virtue of the provisions set forth in said paragraph numbered 11 of the agreement between Nevada Irrigation District and Pacific Gas and Electric Company dated the 20th day of April, A. D. 1924.

Paragraph 11 of the agreement above referred to reads as follows:

> 11. Subject to approval by the Railroad Commission of California, the Company will sell to the District and the District will purchase from the Company at a price to be agreed upon between them, or, if they are unable or fail for any reason to agree thereon, at a price to be determined by said Railroad Commission, in a proper proceeding to be instituted before it by the district for the purpose of having just compensation determined therefor, all of the distributing facilities of the Company that are used or useful in furnishing water service to the public in said county of Nevada below Deer Creek Power Plant, including ditches, pipe-lines and reservoirs below said Deer Creek Power Plant and the Company's water rights in and to the waters of Deer Creek and its tributaries, and, upon the consummation of such sale and purchase, the District will assume at the tailrace of Deer Creek Power Plant all obligations for water service which may attach to all waters now or in the future arriving at such point, and the Company shall thereupon be released from all present and future liability as a public utility for water service in Nevada County now being furnished by means of its Main South Yuba Canal, not including, however, any obligations to the District imposed upon the Company by this agreement.

As we stated in our Decision No. 15296, Application 12201, entitled "In the matter of the Application of Excelsior Water and Power Company, a corporation, to sell, and Nevada Irrigation District to purchase a water system",

> It is clear that it is the duty of the Commission in passing upon requests for the transfer of public utility properties to an organization such as an irrigation district, adequately to safeguard and protect the rights of any consumers remaining outside of the boundaries of the district. This is particularly true because the Commission possesses no control or jurisdiction over irrigation districts, and there exists no state authority for the fixing of rates for such outside service.

It is our opinion that the interests of such outside consumers upon the properties herein proposed to be transferred will be adequately protected by the resolution above mentioned, the quoted portion of which is hereby made a part hereof, and a condition of the order which follows:

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ORDER.

Pacific Gas and Electric Company, a public utility corporation, having made application to this Commission to transfer certain properties to Nevada Irrigation District, which joins in said application, a public hearing having been held, the matter having been submitted, and the Commission being now fully informed in the matter;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to transfer those certain properties in the county of Nevada to Nevada Irrigation District, which properties are more particularly described in Exhibits "B" and "C" attached to the application herein, and made a part hereof, subject to the following condition, in addition to those stated in the opinion which precedes this order:

The authority herein granted shall apply only to such transfer as shall have been made on or before March 1, 1927.

It is hereby further ordered, that Pacific Gas and Electric Company file with this Commission within thirty days from and after the date hereof, a certified copy of the instrument of conveyance by which it proposed to transfer said properties to said Nevada Irrigation District.

It is hereby further ordered, that within thirty days from the date of this order Pacific Gas and Electric Company file with this Commission a certified statement indicating the date on which it relinquished or intends to relinquish control and possession of the properties herein authorized to be transferred. The authority herein granted shall become effective on the date hereof. For all other purposes the effective date of this order shall be twenty days from and after the date thereof.

Dated at San Francisco, California, this thirtieth day of December, 1926.

Decision No. 17826

IN THE MATTER OF THE APPLICATION OF HAINES CANYON WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 13261.

Decided December 30, 1926.

SECURITIES—BONDS—TO SELL.—Haines Canyon Water Company authorized to issue and sell $16,000 of six and one-half per cent mortgage bonds.

M. C. Hartranft, for Applicant.

John S. Knox, for Tujunga-Los Angeles Consolidation Association, Protestant.

BY THE COMMISSION.

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OPINION.

Haines Canyon Water Company asks permission to issue and sell at not less than 94 per cent of their face value and accrued interest $25,000 of its 6½ per cent Series "B" first mortgage bonds due December 1, 1943, and "apply the proceeds to the reimbursement of moneys actually expended from the treasury of the applicant on account of the expenditure of the $24,633.94 by reason of the installation of the new equipment," referred to hereinafter.

Applicant has an authorized stock issue of $100,000 all of which is outstanding. It has an authorized bond issue of $250,000, the payment of which is secured by a deed of trust dated December 1, 1923. Bonds in the amount of $135,000 are now outstanding. Of the outstanding bonds, $110,000 bear interest at the rate of 7 per cent per annum and $25,000 at the rate of 6½ per cent per annum. The company has no notes payable and its accounts payable and other current indebtedness appear in the following balance sheet, which is as of September 30, 1926:

Assets.

Capital investment	$268,231 81
Cash on hand	2,848 02
Bond interest fund	3,009 00
Accounts receivable	13,071 34
Materials on hand	786 11
Prepaid insurance	279 32
Deposit with Los Angeles County	15 00
Unamortized bond discount and expense	14,231 10
Total assets	$302,462 70

Liabilities.

Capital stock outstanding	$100,000 00
Bonds outstanding	135,000 00
Extension capital under contract	20,000 00
Accrued water purchases	5,229 28
Accounts payable	4,084 76
Accrued wages	1,150 00
Accrued taxes	927 99
Accrued interest	3,108 36
Customers deposits	2,565 31
Reserve for depreciation	26,674 86
Surplus	3,632 55
Total liabilities	$302,462 70

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As stated above, applicant reports that from September 30, 1926, it expended for additions and betterments to its properties $24,633.94. This expenditure is segregated as follows:

Franchise and water rights	$184 00
Land	5,199 61
Buildings and structures	298 43
Pumping equipment	1,164 11
Distribution mains	6,978 33
Reservoirs and tanks	15 02
Hydrants	1,949 76
Services	3,445 65
Meters	1,087 24
Tools and appliances	394 82
Office equipment	85 50
Garage equipment	23 00
Undistributed construction	3,808 47
Total	$24,633 94

Applicant under its deed of trust may call upon the trustee under such deed of trust to certify bonds equal to 75 per cent of the cost of additions and betterments exclusive of its investments in intangible property. It appears that under its deed of trust applicant is now in a position to call on the trustee to certify approximately $18,000 of bonds. The remainder of the bonds which applicant asks permission to issue can not be certified by the trustee until such time as applicant has expended additional sums of money for additions and betterments.

John S. Knox, appearing on behalf of the Tujunga-Los Angeles Consolidation Association, asks the Commission to deny the application for the alleged reason, among others, that there is no necessity at this time which requires the company to make the expenditures to which reference will be made hereafter. He called several witnesses who are consumers of applicant and who testified that the service now given by applicant is inadequate and that to their knowledge the company is in a position to furnish all the water that may be required by it. Our attention was also directed to a general election called for the purpose of giving the electorate of Tujunga the opportunity to vote on the question of annexation to the city of Los Angeles.

Representatives of applicant admit that its system has been adequate to render satisfactory service to present consumers. However to give such service the testimony shows that there have been times when applicant had to place in operation every unit of equipment. During July of this year the company operated continously for sixty-three hours every motor owned by it. It is of record that there has been a constant increase in the quantity of water sold by applicant. Its sales during 1922 are reported at 12,747,000 cubic feet; during 1923 at 17,619,000 cubic feet; during 1924 at 19,914,000 cubic feet; during 1925 at 21,491,000 cubic feet and during the ten months ending October 31, 1926 at 23,080,000 cubic feet. In case of a breakdown the

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company now has no reserve equipment. Its storage reservoirs have only a capacity of 1,600,000 gallons which under normal conditions would meet the demands of the consumers for about one and one half days. We believe that the company should forthwith proceed with the installations of additional pumping and booster equipment.

As stated above applicant asks permission to issue bonds to reimburse its treasury. Both the petition and the testimony submitted under direct examination seem to proceed on the theory that inasmuch as $24,633.94 has been expended for additions and betterments, the company is entitled to issue bonds to reimburse its treasury. Such a conclusion does not necessarily follow. Section 52 of the public utilities act requires the Commission to make a finding that the money, property and labor to be procured or paid for through the issue of securities is reasonably required for the purposes stated in the Commission's order, and further provides that a public utility may issue stocks, bonds, notes or other evidences of indebtedness if authorized by the Commission for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the public utility not secured by or obtained from the issue of stocks, bonds, notes or other evidence of indebtedness. The record shows that some of the money invested in additions and betterments is represented by evidences of indebtedness. As to those expenditures it is not proper to reimburse the treasury of the company through the issue of bonds. The proper procedure is to issue bonds to pay indebtedness. Upon cross-examination H. B. Lynch, president and general manager, testified that while the company was asking permission to issue bonds to reimburse its treasury, that it would use a substantial part of the proceeds obtained from the sale of such bonds to acquire pumping and booster equipment and to cover its reservoirs. He seemed to think, however, that the expenditure of moneys for such purpose was incidental to the request of the company to issue bonds to reimburse its treasury. This might be true if applicant had submitted satisfactory evidence showing that it was as a matter of law entitled to issue $25,000 of bonds to reimburse its treasury. Instead of justifying the issue on the basis of reimbursement, applicant's witness emphasized the necessity for making certain improvements. The improvements, referred to in the evidence herein, we believe should be forthwith installed and the order herein will authorize the issue of $11,000 of bonds for that purpose. The order will further authorize the issue of $5,000 of bonds to pay indebtedness and reimburse applicant's reserve for accrued depreciation. The bonds, we believe, should be sold by applicant for not less than 97 per cent of their face value and accrued interest.

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ORDER.

Haines Canyon Water Company having applied to the Railroad Commission for permission to issue $25,000 of its first mortgage 6½ per cent Series "B" bonds due December 1, 1943, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of $16,000 of such bonds is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered as follows:

1. Haines Canyon Water Company may issue and sell for not less than 97 per cent of their face value and accrued interest, $16,000 of 6½ per cent first mortgage bonds due December 1, 1943, and use the proceeds from $11,000 of said bonds to pay, in whole or in part, the cost of acquiring and installing new pumping and booster equipment, the cost of a new building and the cost of covering its reservoirs; the proceeds from $5,000 of said bonds may be used to pay indebtedness and reimburse the company's reserve for accrued depreciation.

2. The authority herein granted will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

3. Haines Canyon Water Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

4. This application in so far as it involves the issue of $9,000 of bonds be, and the same is hereby, denied without prejudice.

Dated at San Francisco, California, this thirtieth day of December, 1926.

DECISION No. 17827.

IN THE MATTER OF THE APPLICATION OF SAN FERNANDO TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE STOCK.

Application No. 13330.

Decided December 30, 1926.

SECURITIES—STOCK—TO ISSUE.—San Fernando Telephone and Telegraph Company authorized to issue and sell $10,000 of stock.

Ernest Irwin, for Applicant.

BY THE COMMISSION.

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OPINION.

San Fernando Telephone and Telegraph Company, a corporation, engaged in giving telephone service in and about the city of San Fernando, asks permission to issue and sell, at not less than par, 100 shares of its common capital stock of the aggregate par value of $10,000.

As of November 1, 1926, applicant reports its assets and liabilities as follows:

Assets.

Fixed capital	$93,403 40
Cash	317 02
Due from subscribers	5,311 71
Materials and supplies	701 94
Special deposit	3 12
Prepayments	489 18
Total assets	$100,247 37

Liabilities.

Capital stock	$40,000 00
Funded debt	14,200 00
Notes payable	2,000 00
Accounts payable	8,521 18
Accruals	447 50
Reserve for depreciation	13,249 99
Surplus	21,778 79
Total liabilities	$100,247 37

The company has an authorized capital stock of $50,000 divided into 500 shares of the par value of $100 each, all common, of which stock in the amount of $40,000 is outstanding. Reports on file with the Commission show that the outstanding stock is held by R. J. McHugh, Walter F. Dunn, J. M. Baldwin and Anna Lorena Baldwin, and it is of record in this proceeding that the $10,000 of stock which the company now seeks permission to issue will be purchased by the present stockholders.

The company proposes to issue the proceeds to be received from the sale of its stock for the following purposes:

To reimburse treasury	$4,927 32
Estimated labor, November and December, 1926, completing cable estimate	600 00
New switchboard section	3,783 35
Estimate of freight and installation of switchboard section	750 00
Total	$10,060 67

In Exhibit "1" the company reports that during the first eleven months of 1926 it expended $4,927.32 for cable, material and labor for central office equipment, station equipment and exchange lines, and it asks permission to reimburse its treasury on account of such expenditures. At the hearing, however, it developed that the $4,927.32 was obtained primarily from advances by stockholders and we believe therefore that the order herein should authorize the company to use $4,927.32 of stock proceeds to pay indebtedness rather than to reimburse its treasury.

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The company has not yet furnished the Commission with sufficiently detailed information on the proposed expenditures in excess of the $4,927.32 and the order herein will therefore direct that all proceeds in excess of $4,927.32 be expended only when and as authorized by the Commission in subsequent orders.

ORDER.

San Fernando Telephone and Telegraph Company having applied to the Railroad Commission for permission to issue and sell $10,000 of stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Fernando Telephone and Telegraph Company be and it hereby is authorized to issue and sell for cash at not less than par on or before December 31, 1927, $10,000 of its common capital stock and to use $4,927.32 of the proceeds to pay outstanding indebtedness and to use the remaining proceeds, when and as authorized by the Commission in subsequent orders, to pay for additions and extensions to its telephone properties.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof, and, further, that applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this thirtieth day of December, 1926.

DECISION No. 17830.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR INCREASE IN RATES CHARGED FOR GAS.

Application No. 11354.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY, A CORPORATION, FOR AUTHORIZATION TO INCREASE RATES.

Application No. 11379.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY, A CORPORATION, FOR AUTHORIZATION TO INCREASE RATES.

Application No. 11380.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE RATES TO BE CHARGED BY SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR NATURAL GAS FURNISHED TO LOS ANGELES GAS AND ELECTRIC CORPORATION.

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Case No. 2186.
Decided December 31, 1926.

RATES—GAS UTILITY—MIXED GAS—NATURAL GAS—WHOLESALE RATES.—The Commission denies the applications of Los Angeles Gas and Electric Corporation and Southern California Gas Company for increases of retail rates for mixed manufactured and natural gas of 850 B.t.u. content, but fixes rates for the distribution of natural gas of approximately 1100 B.t.u. content, the distribution of which is made optional with the utilities. Rates for natural gas established on a basis maintaining the present ratio of cost in proportion to B.t.u. content of the gas. Increases in wholesale rates for natural gas denied, but certain adjustments made to encourage cooperation in use of natural gas.

RATE BASE.—Rate base of $54,506,463 established for Los Angeles Gas and Electric Corporation.

Paul Overton and *S. W. Guthrie*, for Los Angeles Gas and Electric Corporation.

Hugh Gordon, Thomas J. Reynolds, and *Chickering and Gregory* by *Evan Williams*, for Southern California Gas Company and Midway Gas Company.

Jess E. Stephens, City Attorney, and *Milton Bryan, Deputy City Attorney*, for the City of Los Angeles.

J. H. Howard, City Attorney, for City of Pasadena.

Chester L. Coffin, City Attorney, for City of Santa Monica.

K. K. Knapp, for West Hollywood and Sherman District.

R. E. Vedder, for City of South Pasadena

Charles R. Dyer, for Montrose Territory.

T. A. Berkebile, City Attorney, for City of Monterey Park.

R. C. Waltz, City Attorney, for City of Beverly Hills.

Glenn M. Ely, City Attorney, for City of San Gabriel.

Brewton A. Hayne, for City of South Gate.

J. J. Deuel, for California Farm Bureau Federation.

LeRoy M. Edwards, for Southern Counties Gas Company of California.

SEAVEY AND DECOTO, *Commissioners*.

OPINION.

The above entitled applications involve the wholesale rates for natural gas delivered at Los Angeles and the retail rates of two competitive distributing companies operating in the city and suburbs. The four proceedings are therefore so intimately connected as parts of a single situation that they have been combined for hearing and decision. The applications of the utilities were filed early in July, 1925, and hearings on them were held in Los Angeles over a period from September, 1925, until June 3, 1926, when all matters were submitted on briefs.

Midway Gas Company purchases natural gas from oil producing companies in the oil fields and transports it to Los Angeles and there sells it wholesale to its affiliated corporation Southern California Gas Company, and to Los Angeles Gas and Electric Corporation. Part of the gas supplied to the Los Angeles Company is sold to the Southern California Company and resold by it. The system of the Midway Company comprises approximately 605 miles of high pressure transmission lines, 26 compressor stations, metering, and patrol stations, etc., delivering up to 100,000,000 cubic feet of natural gas per day to Los Angeles.

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The company also operates a system in the southern portion of the San Joaquin Valley which it calls its Valley Division and by means of which it supplies gas to oil fields, industrial and wholesale consumers in the vicinity of Bakersfield. In its application, the Midway Company alleges that the cost of purchasing natural gas in the oil fields is increasing, that with the discovery of new fields and the depletion of the older ones, the cost of compression and transmission is increasing, and asks for authority to increase the rates at which natural gas is supplied to the distributing companies in Los Angeles. The gas for the Valley Division is not handled through the transmission lines involved in the service of the Los Angeles distributing companies, and the Midway Company does not include rates on its Valley Division in its application.

Southern California Gas Company, which is controlled by the same stockholders that control the Midway Company, purchases natural gas at wholesale from the Midway Company for distribution in towns and suburban territory in Los Angeles, Orange, Riverside, and San Bernardino counties. It also operates a gas works and distributes a mixture of natural and manufactured gas in parts of the city of Los Angeles. To meet the variation in the demand for gas by domestic consumers it has built up quite a large business in the sale of surplus gas for industrial purposes. This gas is sold at low rates and is subject to shut-off at times when such action is necessary in order to meet domestic requirements. The Southern California Company also purchases and resells a large part of the gas which is supplied by the Midway Company to the Los Angeles Company. The Southern California Company asks permission to increase the rates which it charges for mixed gas served to consumers in the city of Los Angeles and the rates which it charges the Los Angeles Company for natural gas supplied wholesale. This application involves approximately 65,000 domestic and commercial consumers in Los Angeles with an annual gross revenue of approximately $3,000,000.

Los Angeles Gas and Electric Corporation is the older and larger of the two companies supplying domestic gas service in Los Angeles. It operates a gas works in Los Angeles and distributes a mixture of natural and manufactured gas throughout most of the city of Los Angeles and in Pasadena, South Pasadena, Alhambra, Huntington Park, Inglewood and suburban territory. During recent years, it has developed a comparatively small amount of industrial service of surplus natural gas. It serves over 300,000 domestic and commercial consumers and its gross revenue is in excess of $10,000,000 per year. In its application, it alleges that as a result of an increase in the investment per consumer, the cost of service has increased, and it asks authority to increase all of its rates.

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Southern Counties Gas Company of California, which is controlled by the same stockholders that control the Los Angeles Company, purchases natural gas in the Los Angeles basin and operates distribution systems in parts of Los Angeles and Orange counties. It has recently entered into a contract for the purchase of natural gas in the Ventura Avenue field and built a high pressure transmission line from Ventura to Los Angeles in order to supplement its diminishing supply of natural gas from the Los Angeles basin oil fields. Part of the gas transported by means of the Ventura line is sold to the Los Angeles Company. As the price agreed upon between the two affiliated companies was higher than the price being paid by the Los Angeles Company to the Midway and the Southern California companies, the Commission instituted an investigation to determine the fair rate to be paid by the Los Angeles Company for this service. This proceeding covers only the prices charged by the Southern Counties Company for gas delivered to the Los Angeles Company.

The applications of these companies were opposed by the communities which they serve, represented chiefly through the city attorneys of the various towns and cities involved. Early in the course of the hearings, a working organization was affected by these representatives of the public and their case was presented by the city attorney of the city of Los Angeles. The protestants not only answered the claims of the applicants but, in addition, presented affirmative evidence to show that the distributing companies should be required to discontinue the service of mixed gas and in its place to serve natural gas to all consumers. Such a change in operating methods would have an important bearing on operating expenses, the consumption of gas by consumers, the demand on the wholesale companies for natural gas, the supply available for industrial sales, etc. This phase of the case will therefore be discussed in detail before taking up the operating expenses and rates of the individual companies.

Character of Service.

Prior to the advent of natural gas, consumers in the city of Los Angeles were supplied with gas manufactured from oil and having a heating value of approximately 600 British thermal units per cubic foot. In 1913, the Midway Company began to deliver to Los Angeles natural gas having a heating value of about 1000 B. t. u. per cubic foot. At that time, the Los Angeles Company and the Southern California Company commenced the service of a mixture of natural and manufactured gas and soon adopted a half and half mixture having a heating value of approximately 815 B. t. u. per cubic foot. While the demand for gas increased with the growth of the city, new fields were discovered from which natural gas was obtained and this standard of service was maintained until 1921, when because of a reduction in the

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relative supply of natural gas, the quality of mixed gas was reduced to 750 B. t. u. per cubic foot. In 1923, additional natural gas became available and the quality of mixed gas was increased to 850 B. t. u. per cubic foot.

At first the mixed gas served to the consumers was a mixture of natural gas and gas manufactured from oil. In the summer of 1918, the Southern California Company began to use the natural gas in place of oil for a fuel in the manufacture of gas. Without going into the technical detail of the so-called "re-forming process," it may be said that by treating natural gas in the usual gas generators, the volume is increased and the heating value is reduced, the resulting product being quite similar to gas manufactured from oil. The manufactured gas, whether made from oil or by re-forming, is mixed with natural gas in proportions necessary to obtain a mixture with a uniform value of 850 B.t.u. per cubic foot. In the summer months when the demand for gas by domestic consumers is small and there is a surplus of natural gas available, consumers are supplied a mixture of natural gas and reformed natural gas. In winter when the demand of the domestic consumers increases and there is not enough natural gas available, consumers are supplied with a mixture of natural gas and manufactured oil gas which is of the same quality as the gas served during the summer.

The necessity for the maintenance of a fairly uniform quality of gas is generally recognized, not only by most of the witnesses appearing in these hearings and by the authorities which they cite, but also by practically all authorities that have come to our attention in this or other matters. The vast majority of appliances in which gas is burned for the production of heat, mix the gas with air in order that complete combustion may be secured and unless the appliances are adjusted to properly proportion the gas and the air, their operation will be unsatisfactory, inefficient, and, under certain conditions, dangerous. A material change in the character of the gas supplied calls for a readjustment of the appliance of results in unsatisfactory operation.

On the system of the Los Angeles Company, which supplies domestic and commercial consumers almost exclusively, the send-out of mixed gas varied from 100 million cubic feet on some days last winter, which was not a severe one, to less than 30 million cubic feet per day during the following summer. It is estimated that had the temperature conditions of previous years been repeated the peak days' send-out would have been about 125,000,000 cubic feet, or approximately four times that of the following summer. As natural gas must be purchased in the field at a fairly uniform rate, it is obvious that as far as the domestic and commercial consumers are concerned, there must be a serious

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overproduction in the summer or a shortage in the winter. This situation has been met partly by the reforming process and the distribution of mixed gas, and partly by the development of an industrial market for surplus natural gas. During the summer natural gas is sold for use under kilns, boilers, etc., where it may be quickly replaced by oil fuel in the winter time.

As transmission lines have been built connecting the oil fields with the principal market for gas in Los Angeles, the outlying towns have been served from them and a number of small gas manufacturing plants have been shut down. The large gas plants in the city of Los Angeles are still operated and mixed gas is distributed to the concentrated population served from them.

The contention of the cities in this case is that the supply of natural gas now available and to be expected for the next few years is sufficient to justify the abandonment of the service of mixed gas in favor of a service of natural gas supplemented when necessary by manufactured gas. They do not question the necessity of maintaining the gas plants for protection against interruption of transmission lines or future diminution of the supply of natural gas. They point out, however, that during a considerable part of the year these plants could be closed down entirely if natural gas were supplied direct to consumers with a consequent saving in operating costs. It is urged that the plants could be heated up and maintained in readiness for operation during the winter season, and that a satisfactory mixture of natural and manufactured gas could be supplied on occasions when the domestic demand exceeds the supply of natural gas. While the companies admit that during a large part of each year there is now ample natural gas available for the service of domestic consumers, they emphatically claim that most unsatisfactory service would result from any variation in the quality of gas supplied. They introduced evidence contradicting the cities' claims and tending to the conclusion that a shortage of natural gas must be looked for in the near future. They further brought out in considerable detail the cost and practical difficulty of attempting to adjust all of the consumers appliances for proper operation upon a richer gas.

The benefit to the public through a change from mixed gas to natural gas service is measured by the reduction in operating expense due to the complete shutdown of the gas works during the summer season and their partial operation during the winter season when they would be held in readiness for emergency service only. Large gas generators such as those now in question can be placed in active operation only after being gradually "heated up" over a period of two or three days. If they are to be of value for the protection of the consumers against

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shortage of gas caused by the interruption of transmission lines or heavy demands due to the advent of unexpected cold weather, they must be kept hot throughout the period of possible call. This not only involves necessary fuel but means that full crews of expert operators must be on duty throughout the winter season just as if the plants were in continuous operation. The saving through this change in method of operation of the gas plants is therefore less than might be expected at first thought.

A careful analysis of the evidence presented by representatives of both the companies and the cities leads to the conclusion that the savings for a year of average operation might be fairly estimated as follows:

	L. A. G. & E. Corp.	S. Cal. G. Co.	Total
Fuel	$360,000 00	$30,000 00	$390,000 00
Operation and maintenance	400,000 00	80,000 00	480,000 00
Total	$760,000 00	$110,000 00	$870,000 00

These savings would, of course, be much larger if it were possible to entirely eliminate the gas plants, but that, it is agreed, is not the condition we are considering. The actual savings will, of course, depend somewhat on weather conditions and will vary from year to year with the growth in the domestic requirements and with the supply of natural gas available. The figures given are for general comparison with other figures used in this decision to picture the operations of the two companies.

The companies claim that the savings from natural gas service would be very largely offset by the cost of adjusting all of the gas appliances in use on the mixed gas system. Considerable evidence was presented to show the cost of making thousands of such adjustments and that from the practical standpoint it would be almost a physical impossibility to make them. The cost is estimated at $425,000 for the change from mixed to natural gas and at a still larger sum when an increased number of appliances are adjusted to change back from natural to mixed gas. Undoubtedly a great many appliances would have to be readjusted to operate with any degree of satisfaction upon natural gas but we are more impressed with the evidence as to the difficulty of making such adjustments on the wholesale scale contemplated, than with the estimate of cost. It seems certain that no wholesale adjustment of all appliances now in use would or could be made and the estimate of the cost of adjustment therefore appears entirely too high.

Natural or mixed gas can be used by the consumer with equal satisfaction and from his standpoint the difference is one of cost. We need not consider the question raised by the companies regarding the jurisdiction of this Commission to order a change in the character of the service, for no such order is required by the public interest. Believing,

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as we do, that the supply of natural gas is sufficient to permit a reasonably adequate service of natural gas, in lieu of the present mixed gas service, we will consider the operating expenses of the companies upon that basis and fix alternative schedules of rates. The companies may then render whichever kind of service they choose and in either case the consumers will receive the benefit of the use of an available natural resource.

Since the submission of the evidence in this proceeding, information has come to the Commission concerning an offer made to the city of Long Beach jointly by the interests controlling the Midway and Southern California companies. These interests have offered to guarantee for five years a supply of natural gas of ten million cubic feet per day to be delivered to the municipal gas distribution system of Long Beach by means of a third high pressure pipe line to be built from the Ventura avenue oil field. The rate at which this supply has been offered is twenty-four cents per thousand cubic feet. The city of Los Angeles and the territory covered by the present proceedings, is part of the area which these companies profess to serve directly or indirectly and which must look to them for service, while the city of Long Beach is not. As public service corporations they would deserve greater respect and support from the public if they completely fulfilled their obligations to their own territory before taking available natural gas to other territory where it commands a higher price.

Midway Gas Company.

The Midway Gas Company was organized in 1911 for the purpose of transporting to Los Angeles natural gas which had been discovered in some quantity in the Buena Vista Hills oil field in Kern County about two years before. During 1912 a transmission line 111 miles long was built over the Tehachapi mountains to Los Angeles and gathering lines and compressor stations constructed. The ownership and operation of the system was to some extent divided between the Midway Company and the Southern California Gas Company. Gas was first delivered to Los Angeles in 1913 and sold at wholesale to various companies then in the field distributing manufactured gas. In 1913 the Railroad Commission made an investigation of the costs and operation of the Midway line and by Decision No. 1145 (3 C.R.C. 1085) fixed a rate of 14 cents per thousand cubic feet to apply to gas delivered by the Midway Company to the Los Angeles and Southern California companies at the West Glendale terminal of the Midway line. Reference is made to this decision for a more complete description of the origin, financing, construction and business of the Midway Company. While the gas production in the Buena Vista Hills field has declined to almost the vanishing point,

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other fields have been discovered in the same general neighborhood and the Midway line is now operating at more than its original capacity, parallel lines having been laid in the more accessible sections at each end. The 14-cent rate established early in 1914 still applies to the gas delivered at West Glendale.

Beginning about 1915 gas was discovered in one field after another in the Los Angeles basin and the Midway Company made contracts for the purchase of gas in many of these fields and built transmission lines connecting them with the Southern California Company's system in Los Angeles. Much of the gas so collected by the Midway Company has been supplied to the Los Angeles Company through the medium of the Southern California Company under contracts negotiated between the companies from time to time. This is the first proceeding in which all of these rates have been placed before the Commission for review.

Rate Base.

In presenting its claims for an increase in rates, the Midway Company has followed the usual procedure in rate cases by showing its capital investment, the annual requirements for a fair return on the investment, an allowance for depreciation and estimates of operating expenses and of revenue under present rates. An engineer representing the cities was given access to the company's books and records and placed in evidence a study along lines somewhat parallel to those followed by the company.

For the calculations involved in this case the company has segregated the gathering system in the San Joaquin Valley oil fields, referred to as the production department, and has figured the cost of gas delivered to either the "Valley Division" or "Midway Division" as the transmission line is designated. The calculations of the company and city being in substantial accord on this cost, we may pass to the studies of the company and the cities on the Midway lines.

While the capital figures arrived at in the two reports vary somewhat in detailed distribution, the totals as shown in Table No. 1 are in comparative agreement, considering the magnitude of the figures. The principle difference in the make-up of the figures appears to be in the allowance for overhead and indirect costs such as engineering and superintendence, interest during construction, etc. In making its analysis, the company went through its books and deducted from the figures there found, all items which were considered to be properly classified as overhead charges. An analysis was made of both construction and operating expenditures for a period of several years and the ratio of the company's total overhead expense to the total operating and con-

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struction expenditures was determined. This percentage was then added to the total capital figure without overheads previously determined from the books and the result is presented by the company as its claim for the fixed capital account. The city's engineer followed substantially the same procedure except that instead of analyzing construction and operation expenditures in order to determine the overhead percentage, he used an arbitrary percentage fixed by the exercise of his judgment. It appears that he must have followed a somewhat different definition of overheads than did the company's engineer for his figures for direct expense are larger, while his allowance for overheads is smaller and the combination of the two is slightly lower than the company's figure.

In presenting its claim, the company included the present value of land instead of book cost. A detailed examination and appraisal of present value of the company's real property made by E. P. McAuliffe, the Commission's land appraiser, produced results far from in accordance with the claims of the company. A comparison of the company's appraisals and the costs of various recently acquired parcels leads to the conclusion that the company's estimates of present value of land are rather optimistic. This is somewhat borne out by the figures which have been assigned to various small parcels of mountain land used for patrol stations and the like.

We will, therefore, combine with the figures for structural physical capital the present value of real property as estimated by the Commission's land appraiser. The addition of customary allowances for working cash capital and material and supplies, which must be kept on hand for the operation of the system, lead to the total figures for rate base set forth at the foot of the third column in Table 1. To set up this table in a comparative way it has been necessary to make certain minor prorations of undistributed items, but such changes are in full accord with the basis upon which the figures were prepared.

In Decision No. 1145 this Commission allowed a return of 10 per cent because of uncertainty and hazard of the business. The experience and results flowing from that decision lead to the conclusion that for the reasonable period in the future over which the present decision will extend a return of 8 per cent will be proper and ample.

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TABLE NO. 1.

Midway Gas Company Rate Base, Year Ending June 30, 1926.

Midway, Ventura and Los Angeles Divisions.

	Company	*Cities*	*Found reasonable*
Capital (averaged).			
Intangible capital.			
Organization	$42,186 95	$29,588 72	$42,186 95
Franchises	8,253 37	6,577 59	8,253 37
Miscellaneous	--------	15,625 18	--------
Totals	$50,440 32	$51,791 40	$50,440 32
Tangible capital.			
Production	$242,788 69	$253,291 39	$242,788 69
Transmission	7,307,107 98	6,586,430 81	7,307,107 98
Distribution	23,554 57	31,248 50	23,554 57
General	257,400 02	68,413 40	257,400 02
Automobiles	60,168 21	82,333 44	60,168 21
Overhead—Directly assignable	Included above	529,128 04	Included above
Overhead—Undistributed		7,572 72	
Land	105,500 00	104,163 48	86,460 00
Rights of way	--------	40,422 15	--------
Total tangible capital	$7,996,319 47	$7,703,003 93	$7,977,479 47
Working cash capital	361,806 91	316,750 00	200,000 00
Materials and supplies	26,000 00	33,375 00	26,000 00
Total rate base	$8,434,766 70	$8,104,920 42	$8,253,919 79
Rate base, including Ventura Division for proportion of year only	$8,023,333 00	----------	$7,850 000 00

Depreciations.

The Midway Company presented its claims for a depreciation allowance at some length, basing them upon the theory that depreciation of its property depended upon the depletion of underground gas supply rather than upon ordinary wear and corrosion of compressors, piping and such equipment. A rather elaborate study of the amount of gas heretofore produced in the fields and the amount of gas available to the Midway Company from these fields in the future was testified to by an expert geologist. We are of the opinion that the usual sinking fund basis of depreciation has been accepted by the courts as adequate, and it will, therefore, be accepted by us for the purposes of this decision.

Operating Expenses and Revenues.

The principal differences in the estimates of operating expenses presented in evidence were in the quantities of gas which engineers for the companies and for the cities assumed would be handled. Since the submission of this case, the period for which the estimates were made has expired, and we are therefore in the fortunate position of having our judgment of these estimates guided by facts. Using the actual amount of gas handled by the company for the year ending June 30, 1926, we have estimated the operating expenses as shown in the last column of Table No. 2. The combination of the previously discussed items of fair return, depreciation allowance and the estimate of operating expenses indicates that in order to earn the fair return herein considered reasonable the company would have required a total revenue for the year ending June 30, 1926, of $6,907,284.95.

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TABLE NO. 2.

Midway Gas Company Operating Expenses and Revenue Required. Year Ending June 30, 1926.

Midway, Ventura and Los Angeles Divisions.

	Company	*Cities*	*Found reasonable*
Natural gas purchased	$4,503,731 35	$5,001,750 00	$4,933,477 34
Gas used by the company	—82,936 50		—90,850 30
Production expense	53,395 00	60,000 00	58,489 95
Transmission expense	672,847 00	490,500 00	680,760 80
General and miscellaneous expense	173,596 71	161,900 00	173,596 71
Joint operating expense	—94,080 00		—94,080 00
Amortization of gas wells and land	4,926 46		4,926 46
Adjustment to overhead	—120,118 32		—131,580 01
Distribution expense	6,000 00	6,000 00	6,000 00
Commercial expense	1,380 00	1,500 00	1,380 00
Total operating expense	$5,118,741 70	$5,721,650 00	$5,542,120 95
Taxes	406,828 35	446,500 00	420,000 00
Allowance for depreciation	1,288,974 14	317,164 64	317,164 00
Fair return	802,333 32		628,000 00
Total reasonable gross revenue	$7,616,877 51		$6,907,284 95
Industrial and miscellaneous revenue	817,794 91		1,164,203 19
Necessary wholesale revenue	$6,799,082 60		$5,743,081 76
Industrial sales—M.c.f.	3,524,315 00		5,450,976 00
Wholesale sales—M.c.f.	38,977,584 00		41,106,455 00
Total sales—M.c.f.	$42,501,899 00	$48,000,000 00	$46,557,431 00

Not all of this necessary revenue need be furnished by the wholesale business for the Midway Company serves a few large industrial consumers located along its main lines and in addition earns a certain amount of revenue by transporting or compressing gas for oil companies, gasoline absorption plants, etc. The total of this miscellaneous and industrial revenue amounts to $1,164,000 and leaves $5,743,081 to be derived from the wholesale deliveries of gas to the Southern California and Los Angeles companies. The foregoing estimates of operating expenses are based upon a delivery of 41,106,000 M.c.f. of natural gas to these two consumers and the resulting average rate is 14 cents per M.c.f. It is also apparent that some modifications of rates, particularly those to the Los Angeles companies, should be made as the existing set-up of rates and operating conditions has led to a number of disputes and to more or less continuous friction in the daily relations of the companies.

Service Conditions.

At the present time 15,000,000 M.c.f. per day of natural gas is delivered by the Midway Company direct to the Los Angeles Company at the West Glendale terminal at a price of 14 cents per M.c.f. The requirements of the Los Angeles Company in excess of this Glendale delivery are purchased from the Southern California Company which in turn receives the gas from the Midway Company. This Southern California Company delivery has, in the past, been covered by various contracts negotiated between the Southern California and the Los Angeles companies and submitted to the Commission for its approval.

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The last of these contracts expired July 1, 1926, and the companies failed to agree upon its renewal. A disagreement that would have had a serious effect upon service to the consumers of the Los Angeles Company was averted only by a last minute agreement that the contract would be extended until the Railroad Commission in this decision fixed the rates and conditions under which the service was to be rendered in the future.

A necessity for a continuation of contractual relations between the Midway and Southern California companies separately on one hand and the Los Angeles Company on the other is not apparent. The Midway and Southern California companies constitute essentially but one interest and if the Railroad Commission fixes the rates and conditions under which gas is to be supplied, they will have but little difficulty in arranging between themselves for the proper division of obligations and payments. For the purpose of this decision we will, therefore, include in the rate to be paid by the Los Angeles Company a proper charge for the service now being performed by the Southern California Company in handling gas received by it from the Midway Company. This is shown in Table No. 3.

TABLE NO. 3.

Southern California Gas Company Reasonable Cost of Transporting Natural Gas From Midway Gas Company to Los Angeles Gas and Electric Corp. Year Ending June 30, 1926.

Rate Base.	
Total average fixed capital	$430,567 00
Materials and supplies (1% of fixed capital)	4,300 00
Working cash capital	700 00
Total rent base	$435,567 00
Return at 8%	$34,846 00
Operating Expenses	
Cost of unaccounted for gas (100,000 M.c.f. at 14 cents)	$14,000 00
Pro rata transmission expense	20,384 00
Pro rata general expense	13,700 00
Total operating expenses	$48,084 00
Depreciation	13,872 53
Taxes	17,806 92
Total cost of service	$114,609 45
Volume of gas transported to L. A. G. & E. Co.	7,100,000 M.c.f.

The Southern California Company has built up a considerable business in selling surplus gas to industrial consumers during the summer period of light domestic demands. As the requirements of the Los Angeles Company increase with the coming of cold weather, it is necessary for the Southern California Company to cut back its deliveries to these industrial consumers in order that the gas may be available to the Los Angeles Company. One of the causes of the past difficulties has been the fact that all gas received by the Los Angeles Company was paid for at an average rate, and while it was proper that this average rate should be lower than the industrial rate, the

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Southern California Company suffered rather than profited in satisfying the demands of the Los Angeles Company.

To correct this situation the order accompanying this opinion will provide for a block rate so arranged that when the Southern California Company must cut back industrial service, it will receive at least as much money for the gas so made available to the Los Angeles Company as if it had been sold to industries. The rate for basic delivery is adjusted so that the total revenue will, as nearly as can be estimated, equal the total cost of the service.

An important feature of the wholesale supply of natural gas as handled in the Los Angeles market, is the establishment of a schedule of priorities. As the domestic demand increases with the coming of cold weather various other uses of gas must be discontinued, and it is important that the priority of various uses be established in a just and definite schedule. The detail of such a schedule should be based upon certain fundamental considerations, such as the value of the service to the consumer, the dependence of the consumer upon the service, the rate which is paid, etc. As a fuel gas is more valuable to the domestic consumer and small user because its outstanding characteristics of convenience and cleanliness play a more important part in such service, domestic consumers, served from systems where only natural gas is available, should, of course, have first call upon the supply of natural gas as compared with other domestic consumers whose service may be supplemented with manufactured gas made from oil. The gas companies themselves, being more fully equipped, more closely in touch with the situation, and to some extent, having control over the supply of gas, should discontinue the use of gas as a boiler fuel, etc., before discontinuing the service of industrial consumers using gas for similar purposes.

Wholesale natural gas is now delivered to Los Angeles by both the Midway and Southern California Counties companies, and both companies must expect that their deliveries to various classes of service will be governed by a definite schedule of priorities. While the Commission does not have before it in this proceeding the gas supply derived by the Southern Counties Company from the Los Angeles basin oil fields, we do have under consideration the supply which that company delivers by means of its Ventura line. In granting the Southern Counties Company the right to exercise franchises for the construction of this Ventura line the Railroad Commission attached the following condition:

"That in the event of a shortage in the supply of natural gas in Los Angeles, Orange, San Bernardino or Riverside counties the natural gas distributed by means of said pipe line shall be disposed of and distributed in accordance with the orders of this Commission.

(Dec. 15122, July 2, 1925. 26 C. R. C. 730.)

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In view of this condition, imposed at the time the company was authorized to construct its line, it appears that the Railroad Commission would have jurisdiction to apply the same schedule of priorities to the distribution of gas supplied through the Ventura line of the Southern Counties Company as through the other lines in question, and both Southern Counties and Los Angeles companies must look forward to the application of priorities in this way. The distribution system of the Southern Counties Company covers principally the smaller cities and towns and rural districts adjacent to Los Angeles. The industrial consumers served in this territory are generally smaller than those served by the Southern California Company and in most cases put gas to a higher use and pay higher rates for it. They are, therefore, less susceptible to shut-off in favor of domestic consumers and the discontinuance of their service is of less practical benefit. At the present time, the schedule of priorities, will, for these practical reasons, be confined principally to the natural gas supplied by the Midway and Southern California Companies, but uniform treatment over all systems must be contemplated.

With these fundamental considerations in mind, the schedule of priorities contained in the order following this opinion have been prepared.

Southern Counties Gas Company of California.

The Southern Counties Company has operated distribution systems in many of the smaller cities and the rural territory in Los Angeles and Orange counties for a number of years, and in addition supplied first manufactured gas and later natural gas through a separate system in Ventura and Santa Barbara counties. A natural gas supply conforming to the requirements of this northern system was obtained for some years from the Ventura avenue oil field. As a result of drilling activities by the oil companies, a larger natural gas production was developed in this field in 1925 at a time when the production of the Los Angeles basin fields was showing evidence of a sharp decline. Confronted with this decline in its supply of natural gas and with the necessity of either exercising or forfeiting options for the purchase of the increased production of the Ventura avenue field, the Southern Counties Company constructed a high pressure transmission line from Ventura to Los Angeles. To a large extent this line supplies the Southern Counties distribution system in Los Angeles and Orange counties, but the Los Angeles Company, which is controlled by the same interests through stock ownership, assisted the Southern Counties by purchasing its gas and making possible the operation of the new line at an economical capacity. This Ventura line of the Southern Counties Company, constituting a part of the source of supply of the

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Los Angeles Company and the price agreed to be paid by the Los Angeles Company being an element in its cost of service, the Railroad Commission, on its own motion, instituted an investigation to determine the proper rate to be paid by the Los Angeles Company for natural gas purchased from the Southern Counties Company.

The Southern Counties Company has presented figures showing the cost of the line, operating expenses, quantity of gas available, etc., from which it draws the conclusion that the average cost of gas delivered to Los Angeles over the reasonable life of the line will be about 19.3 cents per M.c.f. This figure is based partly on the theory that the original cost of the pipe line, compressors, etc., must be amortized over a period of seven years and also that the amount of gas transported during the latter part of this period will be much less than at the beginning. In view of the probable life and future production of gas in this field, this theory appears unduly conservative and the cost figure, based on it, correspondingly excessive. Other considerations, however, render unnecessary a careful revision of this figure of 19.3 cents per M.c.f. As long as the Southern Counties Company's own consumers receive preference in the supply of gas transported through this line, it must be admitted that the value of the service rendered to the Los Angeles Company is less than that of the service supplied the rest of the Southern Counties system.

We can not justify payment by the Los Angeles Company to the Southern Counties Company of a higher rate than would be charged by the Southern California Company for equivalent or better service. For the purposes of this decision we will, therefore, apply to this service the same rate that is being fixed for the service of the Midway and Southern California Companies to the Los Angeles Company, adjusting the base rate delivery in proportion to the total amount of gas delivered.

Los Angeles Gas and Electric Corporation.

The Los Angeles Gas and Electric Corporation was organized in 1909, taking over at that time various properties which dated back to the Los Angeles Gas Company, incorporated in 1867. The stock of the Los Angeles Gas and Electric Corporation is controlled by the Pacific Lighting Corporation, which also controls the Southern Counties Gas Company of California. The Los Angeles Company supplies electricity in Los Angeles and gas in Pasadena, South Pasadena, Alhambra, Huntington Park, Watts, Inglewood and adjacent territory and in most of the city of Los Angeles. Part of the city of Los Angeles is served by the Southern California Company alone and in part of it the Southern California and Los Angeles Companies are in competition. Throughout this territory the Los Angeles Company serves a mixture

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of natural and manufactured gas. As had been previously described, the manufactured gas in this mixture is made from oil when the supply of natural gas is insufficient and is made by re-forming natural gas when there is an excess of the latter commodity.

The entire send-out of the Los Angeles Company is handled through its main gas works at Center and Aliso Streets, Los Angeles. At this point there are located twenty-one generators having a total capacity of approximately 88,000,000 cubic feet per day and a number of holders. Other holders are located in the southwestern part of Los Angeles, at Hollywood and at Pasadena, making a total of thirteen with a total capacity of 68,000,000 cubic feet. One of the holders at the main gas works is of the recently developed waterless type with a capacity of 15,000,000 cubic feet. The outlying holders and portions of the distribution system are fed from the central plant by high pressure lines. As of December 31, 1925, the distribution system contained a total of 2,650 miles of main. The company's business has grown with great rapidity during recent years, the total sales of gas of 2,750,000,000 cubic feet in 1910, having been multiplied over six times to a total of 17,025,000,000 cubic feet in 1925. The present rates of the Los Angeles Company for gas service were fixed by the Railroad Commission by Decision No. 11835 (23 C.R.C. 264) in March, 1923. At that time the company accepted without insisting upon a formal hearing, an increase in the heating quality of its gas from 750 to 850 B.t.u. per cubic foot at the rates which had previously been in effect. In the present proceeding the company asks authority to increase its rates for mixed gas service, which, as a matter of fact, cover almost its entire business, as it serves only a comparatively small amount of surplus natural gas for industrial uses. In support of its application, its gas engineer, Mr. Masser, has made an unusually complete and detailed showing of its revenues, expenses and all other details of its business. As with the other companies involved, an engineer representing the cities made an investigation into the company's figures and as to facts, his report is in substantial agreement with the company's exhibits.

Rate Base.

The company presented in some detail a statement of the historical cost of its structural property and the present value of its land and in addition put in a figure for the present value of the entire property, based upon reproduction cost at present prices, less depreciation, and including going value, etc. In its brief, the company goes to some length in supporting so-called present value as a basis for rates, citing a number of court decisions in support of its position.

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The estimate of reproduction cost at present prices, less depreciation, is based upon the application of "Translation factors" to a historical cost appraisal. The cost of each class of property included in the historical cost of January 1, 1915, is multiplied by a factor representing the change in price levels from 1914 to the present time as applying to that particular class of property. Net cost of additions and betterments for each year since 1914 is treated in a similar manner. It is at once apparent that many items of property represented in the January, 1915, figure have since been abandoned or replaced, and corresponding deductions are in effect included in the net additions and betterments of later years. Price levels having generally increased since 1914, the "Translation factor" applied to the figure at which such property appears in the historical cost of January 1, 1915, is greater than that applied to the figure at which the same property is deducted from the gross additions and betterments of ensuing years. As a result of this fundamental error, great weight can not be given to the estimates developed by this method.

The claim that $5,000,000 represents the "going value" of this company's gas business is supported by the opinion of its gas engineer. From a study of various unspecified court and commission decisions, he came to the conclusion that going value should be about ten per cent of the original cost or present value of the physical equipment. Expressing the value of physical properties at $50,000,000 in round numbers and applying the percentage, he arrived at a going value of $5,000,000. This is certainly not the application of a universal rule, for it can not apply to an ill conceived or mismanaged business operating at a loss. The method has been used in a number of cases, but its use must be guided by mature experience, sound judgment and fine discrimination as well as by the multiplication table. The record does not show that this engineer is qualified as an expert on going value and we do not feel justified in considering his testimony in this regard.

TABLE NO. 4.

Los Angeles Gas and Electric Corporation Rate Base.
Year Ending December 31, 1925.
Excluding Industrial Service.

Fixed capital (average).		
Intangible capital		$456,210 14
Tangible capital.		
Land	$3,137,762 00	
Production	18,890,541 86	
Distribution	27,532,089 55	
General	2,878,861 94	
Total tangible capital		52,439,255 35
Total fixed capital, including industrial service		$52,895,465 49
Fixed capital—industrial service		215,000 00
Total fixed capital, excluding industrial service		$52,680,465 49
Materials and supplies		1,226,000 00
Working cash capital		600,000 00
Total rate base		**$54,506,465 49**

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Depreciation.

In working out their claim for an annual allowance for depreciation, the company's engineers have used somewhat shorter lives for various classes of equipment than those that have previously been accepted. In this, the engineer representing the cities is in general agreement, his report showing some lives longer than those used by the company and a few shorter. The total annuity which he calculates is somewhat smaller than that calculated by the company but is larger than would be arrived at upon the lives heretofore used. The reason for using these shorter lives is not difficult to find. The rapid growth of the city of Los Angeles and of other communities in which this company operates has resulted in an unusually extensive program of street opening, widening, paving, etc. Many changes in mains must be made to conform to such changes in the streets under which they are laid.

In addition, the rapid growth of the company's load is calling for the replacement of many pieces of equipment on account of lack of capacity before they are worn out in service. To quite an extent it is more economical to install moderate sized equipment and replace it before it is entirely worn out than to carry the extra investment in the larger equipment to avoid such replacement.

TABLE NO. 5.
Los Angeles Gas and Electric Corporation. Depreciation Annuity. Year Ending December 31, 1926.

	Average depreciable fixed capital July 1, 1926	*Estimated life Years*	*Depreciation Rate*	*Depreciation Annuity*
Production—				
Buildings	$1,982,003 71	33	.010273	$20,361 12
Holders	5,148,230 30	40	.006462	33,267 86
Furnaces, boilers	1,272,560 31	25	.018230	23,198 77
Generators	2,215,991 63	18	.032357	71,702 84
Purifiers	1,424,448 71	20	.027185	38,723 64
Accessory equipment	6,847,307 20	20	.027185	186,144 05
Totals	$18,890,541 86			$373,398 28
Distribution—				
Mains	$17,535,656 46	25	.018230	$319,674 99
Services	5,600,876 22	18	.032357	181,227 55
Meters Regulators	3,949,946 11	25	.018230	72,007 52
Miscellaneous, distribution, equipment	180,213 63	10	.075870	8,210 17
Distribution, Structures	122,398 13	35	.008970	1,097 91
Totals	$27,389,089 55			$582,218 14
General—				
General structures	$1,800,971 56	45	.004700	$8,464 57
General office equipment	263,733 50	15	.042963	11,330 77
B. & C. shop & tools	62,275 91	12	.059227	3,688 42
D. garage	552,550 90	6	.143363	79,216 35
Tools and miscellaneous	199,330 27	8	.101036	20,139 53
Totals	$2,878,861 94			$122,838 64
Grand totals	$49,158,493 35			$1,078,455 06

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Operating Expense and Revenue.

Except for the choice between the service of natural and mixed gas, the principal question in regard to operating expenses and revenues is in connection with the probable amount of gas to be sold during the calendar year 1926, which has been accepted as a convenient rate year, upon the basis of which revenue, expense and capital may be compared. The figure presented by the city's engineer is somewhat larger than that presented by the company's, both as to number of consumers and quantity of gas sold. Although the company has experienced a rapid growth during the past few years, its claim, which is well supported with evidence, was that the communities served would not show the same rate of growth in the year in question, that they have in the past. The city's engineer uses a rate of growth more nearly comparable with that which has been experienced. Actual figures of sales and number of consumers for the first few months of 1926 go far toward supporting the estimates which the company has given for the remainder of the year. Rates are not to be fixed for the calendar year 1926 by itself, but that year is being used as a typical period for the comparison of revenue, expense and capital, and the rates so determined are intended to apply until conditions change sufficiently to warrant a change in rate.

We, therefore, feel for the purposes of this decision we should use a figure more representative of normal growth than that presented by the company. As a result of a consideration of this phase of the matter and of estimates prepared by the Commission's engineering department, this decision is based upon the figures for the number of consumers and for sales of gas greater than those anticipated by the company and almost equal to those claimed by the city. Table 6 shows estimates of revenues and operating expense for the year 1926 as used herein. As has already been indicated we do not believe consumers should be required to pay the additional cost of furnishing a mixed gas service and these estimates are, therefore, based on the service of natural gas.

Estimate of Reasonable Operating Expenses and Revenue Year 1925.
Los Angeles Gas and Electric Corporation.
Domestic and Commercial Service
on Natural Gas Basis.

Production expense—		
Natural gas and oil	$2,741,748 00	
Operating and maintenance	495,000 00	$3,236,748 00
Transmission expense		9,000 00
Distribution expense		690,000 00
Commercial expense		917,000 00
General and miscellaneous expense		543,000 00
Taxes		1,030,000 00
Uncollectible bills		118,000 00
Total operating expense		$6,543,748 00
Depreciation		1,078,000 00
Total cost of service excluding return		$7,621,748 00

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Sales—Mixed gas 17,290,000 M.c.f.	
Revenue from present rates for mixed gas or equivalent rate for natural gas	11,900,000 00
Net for return	$4,236,252 00
Rate of return on rate base of $54,506,465	7.8 per cent

The company asks for a return of 9 per cent upon $2,800,000 of money borrowed several years ago during the period of high interest rates and a return of 8½ per cent on the balance of its investment. On a rate basis of approximately $55,000,000 these figures result in an average rate of return of 8.53 per cent. In the last decision in which this Commission considered the rate of return for the gas department of this company (Decision 9132-20 C.R.C. 93) which was reached in June, 1921, the Commission allowed 9 per cent on the same $2,800,000 of borrowed money and 8 per cent on the balance of a rate base approximately $20,000,000 an average of 8.14 per cent. Since 1921 the company has financed additions to its gas department property approximately equal to twice the entire rate base of our 1921 decision so that its gas department investment is now about three times what it was when an average rate of return of 8.14 per cent was determined upon. This increase in business and size has brought increased strength and greater ease of financing. Interest rates have declined more or less steadily since 1921 and a lower rather than a higher rate of return is justified.

In recent cases involving large gas or electric companies, the Commission has considered as reasonable rates of return of 7½ per cent to 8 per cent, and we believe that the return of 7.8 per cent shown in Table No. 6 is reasonable. The Los Angeles Company supplies three hundred thousand consumers with the exclusive service of an essential commodity and while the supply of natural gas may decrease or even fail entirely, these consumers must continue to buy gas made from oil or coal and if necessary will pay corresponding rates. We, therefore, see no particular hazard in this business as compared with the business of any other gas company or other public utility. Neither do we see the evidence of any unusual efficiency or progressiveness such as would warrant as unusual rate of return. The company's property has for many years been managed along safe and conservative lines. The claim of low commercial expenses may be well founded but the company has been slow to initiate other and more important economies, or progressive steps for the maintenance of its service.

Rates.

From the foregoing it appears that the present rates for mixed gas service may be considered just and reasonable if the Company desires to continue that character of service. If it should conclude to supply

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its consumers with pure natural gas, equivalent rates should be placed in effect, and provision is made in the order accompanying this opinion, for rates for such service.

Since rates for this company were last before the Commission, many outlying sections of the city of Los Angeles have been built up, and new territory has been annexed. Representatives of various improvement clubs and organizations of consumers in such communities, appeared at the hearings, asking that the Commission give consideration to reclassification of the company's territory, for rate purposes. As a result of an investigation into this matter, it seems that if any change in rates is to be made, the boundaries of the geographical districts in which the various rates have heretofore been charged, should also be changed. The alternative rates for natural gas service, fixed in the accompanying order, provide for such changes as seem desirable.

Except for this change in territory and the corresponding adjustment, these alternative rates have been calculated to give a charge for a given number of heat units that will be the same for natural as for mixed gas. As the consumption of gas has been found to depend upon heating value, the bills of the consumers and the revenue of the company should be the same for either character of service.

Southern California Gas Company.

The Southern California Gas Company was incorporated in October, 1910, and almost immediately took over the property of the Domestic Gas Company which had been operating in Los Angeles. Within a short time, additional gas systems were acquired in neighboring towns and in later years an extensive distribution system has been built up partly by the acquisition of other small independent systems and partly by extension and construction. The Southern California Company is closely connected in ownership and control with the Midway Company. Not only has the development of mixed gas service in Los Angeles on the Southern California system closely paralleled that on the Los Angeles Company's system as already described, but the Southern California Company has also developed an extensive industrial and domestic service of natural gas.

Natural gas is supplied for domestic purposes in San Bernardino, Redlands, Riverside, Corona, Downey, Redondo, Torrance, Lankershim, San Fernando, Glendale and adjacent territory and throughout this territory and in the industrial districts of Los Angeles a large amount of surplus natural gas is sold for industrial purposes at times when the domestic demand is low.

Mixed gas is supplied for domestic purposes in parts of Los Angeles and Beverly Hills, either in direct competition with the Los Angeles Company or in adjoining territory. Mixed gas is also supplied whole-

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sale to Southern Counties Gas Company of California for distribution in Santa Monica, Venice, Sawtelle and vicinity. All mixed gas service is handled from a central gas works located at Tenth and Santa Fe streets in Los Angeles. At this point are located sixteen generators with a total capacity of 28,000,000 cubic feet per day as well as part of the holder capacity. These holders, together with outlying holders in various parts of the city, total six in number with an aggregate capacity of 18,000,000 cubic feet.

The rates for mixed gas in effect on this system were last considered in detail by the Commission in Decision No. 9133, (20 C.R.C. 111), dated June 22, 1921. In 1923, the company waived formal hearings, etc., and accepted a recommendation by the Commission's engineering department that the quality of gas be increased from 750 to 850 B.t.u. per cubic foot. This increase in heating value was made without change in the then existing rates and was placed in effect by Decision No. 11836 (23 C.R.C. 268), dated March 28, 1923.

In addition to the rates established by these decisions, there are in effect two schedules applying to industrial service of mixed gas from the system formerly operated by the Economic Gas Company. This system originally distributed natural gas from the Salt Lake and Sherman oil fields west of Los Angeles and these rates at that time applied to surplus natural gas service to industrial consumers. Some time after the purchase of this Economic system by the Southern California Company, the supply of natural gas from these fields failed and mixed gas was supplied to the system. The result is that the consumers formerly receiving surplus natural gas service under these particular rates are now receiving a uniform and thoroughly dependable supply of mixed gas at much lower rates than their neighbors who were originally supplied direct from the Southern California Company's mixed gas system.

This condition has resulted, and if permitted, will continue to result in discrimination in favor of these consumers of the former Economic system. The quality of service with which they are being furnished has been materially improved and they can not fairly expect to receive a guaranteed service at rates established for a surplus service subject to suspension.

As in its opposition to the application of the Midway Company, the city has urged that the total system of the Southern California Company be considered in the determination of the reasonableness of its rates. The mixed gas service is supplied from a separate plant through separate mains and in distinct territories. If the situation were such that consumers in the city of Los Angeles expected to be burdened by the consolidation of the two systems, they would in all probability and

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and very properly contend that the services were distinct. We believe that the same principle should apply consistently regardless of the effect of the combination or separation of the different services and will, therefore, consider the application as presented, covering only mixed gas service.

This mixed gas service is supplied either in direct competition with the Los Angeles Company or in areas that are adjacent to and in some cases entirely surrounded by the service of the Los Angeles Company. Under such conditions, it has in the past, seemed advisable that the rates on the two systems be identical. This condition has been recognized in several decisions fixing rates for mixed gas service of the Southern California Company, among which may be mentioned, Decision No. 4559, (13 C. R. C. 742), August 21, 1917; Decision No. 6138, (16 C. R. C. 475), February 21, 1919, and Decision No. 9133, (20 C. R. C. 111), June 22, 1921. In each of these decisions, the rates fixed for the Southern California system were the same as those fixed for the Los Angeles Company at approximately the same date, and in each of them, mention is made of the fact that the rate of return earned by the Southern California Company under such rates, will be less than that found reasonable for the Los Angeles Company.

The same considerations now require that the same rates be fixed for the Southern California Company as for the Los Angeles Company and if such rates result in a lower return, the condition must apparently be accepted. After the period of lower return covered by the foregoing decisions, the Southern California Company might be reasonably entitled to some additional return in excess of that found reasonable for the Los Angeles Company if such a result followed the fixing of equal rates. It does not seem likely, however, that any unreasonable return to the Southern California Company will result from the rates which in this decision are found to be reasonable for the Los Angeles Company.

In Table No. 7 are shown figures presented in the company's and the city's exhibits based on their estimates of the operating results for the year 1926 under conditions heretofore existing. At the foot of the table are shown the modifications that would be made in the figures for revenue by the substitution of the rates herein fixed for those previously in effect.

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TABLE NO. 7.

Southern California Gas Company—Mixed Gas System.
Estimated Results of Operations—Year 1926.

	Company exhibit	*City's exhibit*
Mixed gas basis.		
Operating revenue	$3,024,855 00	$3,361,815 00
Operating expense and taxes	2,322,781 00	2,352,233 00
Depreciation	278,156 00	261,699 00
	$2,600,937 00	$2,614,932 00
Net for return	$423,918 00	$746,883 00
Rate base	$12,558,290 00	$13,191,477 00
Rate of return	3.4%	5.7%
Natural gas basis.		
Approximate reduction in expense through substitution of natural gas for mixed gas	$110,000 00	$110,000 00
Revenue as estimated above	**$423,918 00**	**$746,883 00**
Approximate net revenue from natural gas service at equivalent rates	$533,918 00	$856,883 00
Rate of return	4¼%	6½%

While the foregoing table does not indicate an extremely favorable situation, we find it hard to believe that the actual conditions will be as bad from the company's standpoint as this table might indicate. The company also does considerable business in its Los Angeles territory in the sale of surplus natural gas for industrial purposes and under normal industrial activities and oil prices, the return from this branch of the business should bring about a satisfactory return as to the whole territory.

We submit the following form of order:

ORDER.

Midway Gas Company, Southern California Gas Company and Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for authority to increase certain rates and charges, the Railroad Commission on its own motion having instituted an investigation into the rates of Southern Counties Gas Company of California for certain service, said applications and investigation having been combined for hearing and decision, public hearings having been held, and the matters having been submitted and now being ready for decision:

The Railroad Commission hereby finds as a fact that the rates of Midway Gas Company, Southern California Gas Company, Los Angeles Gas and Electric Corporation and Southern Counties Gas Company of California are unreasonable and unjust in so far as they conflict with the rates set forth herein; which rates are hereby declared to be just and reasonable rates.

Basing its order on the foregoing finding of fact and on the findings of fact in the opinion preceding this order;

It is hereby ordered, that

1. Effective February 1, 1927, Midway Gas Corporation and Southern California Gas Company shall furnish natural gas to Los Angeles Gas

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and Electric Corporation at the rates and in accordance with the conditions set out in Exhibit A attached to this order and made a part hereof.

2. Effective February 1, 1927, Southern Counties Gas Company of California shall charge and collect for natural gas furnished to Los Angeles Gas and Electric Corporation in accordance with the rates set forth in Exhibit B attached to this order and made a part hereof.

3. Los Angeles Gas and Electric Corporation be and it is hereby authorized, at its option and after fifteen days' notice in writing to this Commission to supply natural gas to its consumers in lieu of the mixed gas now supplied, and to charge and collect for domestic and commercial natural gas service in accordance with the rates set out in Exhibit C attached to this order and made a part hereof; such rates to become effective with bills based on regular periodic meter readings taken on and after fifteen days after the date of such change in character of service.

4. Southern California Gas Company be and it is hereby authorized, at its option and after fifteen days' notice in writing to this Commission, to supply natural gas to its consumers in lieu of the mixed gas now supplied, and to charge and collect for domestic and commercial natural gas service in accordance with the rates set out in Exhibit D attached to this order and made a part hereof; such rates to become effective with bills based on regular periodic meter readings taken on and after fifteen days after the date of such change in character of service.

5. Effective with bills based on regular periodic meter readings taken on and after February 1, 1927, Southern California Gas Company be and it is authorized to charge and collect for industrial mixed gas service the rates set forth in Exhibit E attached to this order and made a part hereof, which rates are to supersede schedules A-2, A-3 and A-10 now in effect on the Economic Division of Southern California Gas Company and are to be open to all qualifying consumers.

6. Effective with bills based on regular periodic meter readings taken on and after February 1, 1927, Midway Gas Company is authorized to charge and collect for domestic and commercial natural gas service supplied from its Midway transmission lines, the rates set out in Exhibit F attached hereto and made a part hereof.

7. Before the dates upon which the schedules set forth in Exhibits C, D, E, and F attached hereto, become effective, Los Angeles Gas and Electric Corporation, Southern California Gas Company and Midway Gas Company shall file with this Commission, revised tariff sheets setting forth the schedules herein authorized and such other modifications of rates and rules and regulations as may be consistent therewith.

8. For all other purposes, the effective date of this order shall be twenty days from and after the date hereof and the authority herein

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granted for changing character of service or rates shall expire, unless sooner exercised, six months from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of December, 1926.

EXHIBIT "A."

Rates and Conditions to Apply to Delivery of Natural Gas to Los Angeles Gas and Electric Corporation by Midway Gas Company and/or Southern California Gas Company.

Rate.

For the first 40,000 M.c.f. each day from November 15th to April 14th, inclusive, and for all gas each day from April 15th to November 14th	14 cents per M.c.f.
For the next 10,000 M.c.f. each day from November 15th to April 14th, inclusive	20 cents per M.c.f. plus 1 cent per M.c.f. for each 10 cents that the market price of fuel oil exceeds $1.00 per barrel, but not more than 25 cents per M.c.f.
For all over 50,000 M.c.f. each day from November 15th to April 14th, inclusive	25 cents per M.c.f.

Minimum.

Minimum daily bill $4,200 for 30,000 M.c.f.

Conditions of service.

1. The foregoing rate will apply to the combined deliveries of gas by Midway Gas Company and Southern Caliofrnia Gas Company to Los Angeles Gas and Electric Corporation.
2. As far as possible gas shall be delivered and taken at a reasonably uniform rate throughout the twenty-four hours of each day.
3. When the average heating value of gas delivered under this rate can not be maintained approximately equal to the average heating value of all gas delivered at Los Angeles by the Midway Gas Company, this rate shall be adjusted on a heating value basis.
4. When Midway Gas Company does not have available sufficient gas to meet the demands of Southern California Gas Company and Los Angeles Gas and Electric Corporation, gas available shall be divided to satisfy their requirements in the following order:

   First. Domestic requirements of consumers in Southern California Gas Company's present natural gas territory.

   Second. In case of mixed gas service, mixing requirements at Southern California Gas Company and Los Angeles Gas and Electric Corporation gas works, in proportion to send out.

   In case of natural gas service, domestic and commercial requirements on present mixed gas systems of Southern California Gas Company and Los Angeles Gas and Electric Corporation, in proportion to send out.

   Third. Requirements of essential industrial natural gas consumers of Los Angeles Gas and Electrict Corporation and Southern California Gas Company in proportion to corresponding sales of the two systems for the preceding August, September and October.

   Fourth. If mixed gas service is continued, gas for reforming at the plants of Southern California Gas Company and Los Angeles Gas and Electric Corporation in proportion to mixed gas sendout. This classification includes gas used in generators on make runs, but does not include fuel used in generators on heat runs.

   Fifth. Requirements of surplus industrial natural gas consumers of Los Angeles Gas and Electric Corporation and Southern California Gas Company in proportion to corresponding sales for the preceding August, September and October.

   Sixth. Fuel requirements at plants of Southern California Gas Company and Los Angeles Gas and Electric Corporation in proportion to sendout, to present mixed gas system. This classification includes boiler fuel, etc., and also fuel used in generators on heat runs.

   Seventh. Fuel requirements of Los Angeles Gas and Electric Corporation, Alameda Street and Seal Beach electric plants.

   General. In applying the foregoing priorities there shall be considered as included in gas available to Los Angeles Gas and Electric Corporation, gas being delivered to it at Los Angeles by Southern Counties Gas Company of California, and any gas being burned at its Seal Beach electric plant which might otherwise be transported to Los Angeles.

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EXHIBIT "B."

Rates for Delivery of Natural Gas to Los Angeles Gas and Electric Corporation by Southern Counties Gas Company of California, Applying to Combined Delivery at Montebello and from Ventura Line.

Rate.

For the first 12,000 M.c.f. each day from November 15th to April 14th, inclusive, and for all gas from April 15th to November 14th, inclusive---------- 14 cents per M.c.f.

For the next 3000 M.c.f. each day from November 15th to April 14th, inclusive---------- 20 cents per M.c.f. plus 1 cent per M.c.f. for each 10 cents per barrel that the market price of fuel oil exceeds $1.00 per barrel but not more than 25 cents per M.c.f.

For all over 15,000 M.c.f. each day from November 15th to April 14th, inclusive---------- 25 cents per M.c.f.

Minimum.

Minimum daily bill $1,260 for 9000 M.c.f.

EXHIBIT "C."

Rates to be Charged by Los Angeles Gas and Electric Corporation for Natural Gas, Domestic and Commercial Service.

Schedule No. 1.

General service.

Applicable to domestic and commercial service for lighting, heating and cooking. Natural gas.

Territory.

Within the city limits of Los Angeles as they existed May 30, 1926, except

1. That portion of West Coast addition west of a southerly continuation of the westerly boundary of Buckler addition.

2. Territory south of Manchester avenue.

Also including unincorporated territory in the vicinity of Sherman contiguous to Laurel Canyon, Melrose and Fairfax addition.

Rate.

First	4,000	cubic feet per meter per month----------	92 cents per M.c.f.
Next	11,000	cubic feet per meter per month----------	85 cents per M.c.f.
Next	25,000	cubic feet per meter per month----------	78 cents per M.c.f.
All over	40,000	cubic feet per meter per month----------	72 cents per M.c.f.

Minimum charge.

For four or more meters at one location and on one service---------- 70 cents per meter per month

Under all other conditions---------- 80 cents per meter per month

The above schedule cancels Schedule 1 previously in effect.

Schedule No. 2.

General service.

Applicable to domestic and commercial service for lighting, heating and cooking. Natural gas.

Territory.

Within city limits of Pasadena, South Pasadena, Alhambra, Huntington Park, Los Angeles south of Manchester avenue, and unincorporated territory west of Alameda street and north of an easterly continuation of the southerly boundary of Watts.

Rate.

First	4,000	cubic feet per meter per month----------	98 cents per M.c.f.
Next	11,000	cubic feet per meter per month----------	85 cents per M.c.f.
Next	25,000	cubic feet per meter per month----------	78 cents per M.c.f.
All over	40,000	cubic feet per meter per month----------	72 cents per M.c.f.

Minimum charge.

For four or more meters at one location and on one service---------- 70 cents per meter per month

Under all other conditions---------- 80 cents per meter per month

The above schedule cancels schedules 2 and 3 previously in effect.

Schedule No. 3.

General service.

Applicable to domestic and commercial service for lighting, heating and cooking Average heating quality of gas 850 B.T.U. per cubic foot.

Territory.

All districts not included under schedules Nos. 1 and 2, namely, (1) San Marino; (2) San Gabriel; (3) unincorporated territory north, east and south of Pasadena and Alhambra, including portion of Bell annex; (4) territory served east of city limits of Huntington Park including portions of Maywood and of Bell annex to Los Angeles; (5) unincorporated territory south of southerly limits of Watts; (6) territory south and west of the city of Los Angeles including Inglewood, Hawthorne and that portion of West Coast addition west of a southerly continuation of the west boundary of Buckler addition.

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Rate.

First	4,000 cubic feet per meter per month	$1 12 per M.c.f.
Next	11,000 cubic feet per meter per month	98 per M.c.f.
Next	25,000 cubic feet per meter per month	85 per M.c.f.
All over	40,000 cubic feet per meter per month	72 per M.c.f.

Minimum charge.

For four or more meters at one location and on one service ..... 70 cents per meter per month
Under all other conditions ..... 80 cents per meter per month
The above schedule cancels Schedule No. 4 previously in effect.

EXHIBIT "D."

Rates to be Charged by Southern California Gas Company for Domestic and Commercial Natural Gas Service.

Schedule No. A-1.

Los Angeles Division.

General service.

Applicable to the service of natural gas for domestic and commercial lighting, heating and cooking.

Territory.

Within the city of Los Angeles except Laurel Canyon, Beverly Glen and West Gate addition.

Rate.

First	4,000 cubic feet per meter per month	92 cents per M.c.f.
Next	11,000 cubic feet per meter per month	85 cents per M.c.f.
Next	25,000 cubic feet per meter per month	78 cents per M.c.f.
All over	40,000 cubic feet per meter per month	72 cents per M.c.f.

Minimum charge.

For four or more meters at one location and on one service ..... 70 cents per meter per month
Under all other conditions ..... 80 cents per meter per month
The above schedule cancels Schedule No. A-1 previously in effect.

Schedule No. A-5.

Los Angeles Division.

General service.

Applicable to the service of natural gas for domestic and commercial lighting, heating and cooking.

Territory.

Within the city of Beverly Hills and Laurel Canyon, Beverly Glen and Westgate additions to the city of Los Angeles.

Rate.

First	4,000 cubic feet per meter per month	98 cents per M.c.f.
Next	11,000 cubic feet per meter per month	85 cents per M.c.f.
Next	25,000 cubic feet per meter per month	78 cents per M.c.f.
All over	40,000 cubic feet per meter per month	72 cents per M.c.f.

Minimum charge.

For four or more meters at one location and on one service ..... 70 cents per meter per month
Under all other conditions ..... 80 cents per meter per month
The above schedule cancels Schedule No. A-5 previously in effect.

EXHIBIT "E."

Rates to be Charged by Southern California Gas Company for Industrial mixed Gas Service.

Schedule A-2.

Mixed Gas.

Service.

Applicable to industrial and commercial service except air heating and other uses dependent on atmospheric temperature. Mixed gas of an average quality of 850 B.T.U. per cubic foot.

Territory.

Applicable to all territory served in Los Angeles County.

Rate.

Readiness to serve charge ..... $10 00 per meter per month
Consumption charge (to be added to readiness to serve charge).

For the first 100,000 cubic feet per meter per month	50 cents per M.c.f.
For the next 200,000 cubic feet per meter per month	45 cents per M.c.f.
For all over 300,000 cubic feet per meter per month	40 cents per M.c.f.

The above schedule cancels schedules A-2, A-3 and A-10 previously in effect.

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EXHIBIT "F."

Rates to be Charged by Midway Gas Company for Domestic and Commercial Service from Taft-Glendale Transmission Line.

Schedule A-2.

Service.

Applicable to domestic and commercial service of natural gas for lighting, heating and cooking.

Territory.

Applicable in District No. 1.

Rate.

First	600 cubic feet or less per meter per month	$1 00	
Next	2,400 cubic feet per meter per month	1 00	per M.c.f.
Next	7,000 cubic feet per meter per month	75	per M.c.f.
Next	10,000 cubic feet per meter per month	60	per M.c.f.
All over	20,000 cubic feet per meter per month	50	per M.c.f.

The above schedule cancels Schedule A-2 now in effect.

DECISION No. 17831.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF CAPITAL STOCK.

Application No. 11996.

Decided December 31, 1926.

BY THE COMMISSION.

FIRST SUPPLEMENTAL OPINION AND ORDER.

In a supplemental petition filed in the above entitled matter on December 27, 1926, California Transit Co. asks the Railroad Commission to modify Decision No. 16033, dated March 2, 1926, so as to permit applicant to use $170,000 of the stock, the issue of which is authorized by said decision, to pay a stock dividend.

By Decision No. 16033, as amended, the Commission authorized California Transit Co., among other things, to issue and sell at par for cash, on or before March 31, 1927, 2100 shares of its common capital stock of the aggregate par value of $210,000, provided that the proceeds received be placed in a special deposit and expended only for such purposes as the Commission might authorize in supplemental orders. The company reports that none of this stock has been issued, and that during the year 1926 it has manufactured and put into operation seventeen new 26-passenger stages, as shown in some detail in Exhibit "B", at a cost of about $170,000, and that the cost of such stages was paid by the use of surplus earnings. It further reports a credit balance in its corporate surplus account, as of September 30, 1926, of $425,164.30, and a reserve for accrued depreciation of $470,057.37.

We have given consideration to applicant's supplemental petition and are of the opinion that the order in Decision No. 16033, dated March 2, 1926, should be amended, as herein indicated; therefore,

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It is hereby ordered, that the order in Decision No. 16033, dated March 2, 1926, as amended, be and it hereby is modified so as to permit California Transit Co. to use not exceeding $170,000 of the stock authorized therein to reimburse its treasury on account of surplus earnings invested in property and equipment, provided that after such reimbursement applicant may, if it so desires, distribute the $170,000 of stock as permitted by law, to its present stockholders as a stock dividend; and provided further, that the authority herein granted will become effective upon the date hereof.

It is hereby further ordered, that the order in Decision No. 16033, dated March 2, 1926, as amended, shall remain in full force and effect, except as modified herein.

Dated at San Francisco, California, this thirty-first day of December, 1926.

DECISION No. 17832.

IN THE MATTER OF THE APPLICATION OF AGUA CALIENTE WATER WORKS, WILLIAM F. WHITE, OWNER, FOR PERMISSION TO SELL ITS PROPERTIES.

Application No. 13381.

IN THE MATTER OF THE APPLICATION OF BOYES HOT SPRINGS CO., A CORPORATION, FOR PERMISSION TO SELL ITS PUBLIC UTILITY WATER PROPERTIES.

Application No. 13383.

IN THE MATTER OF THE APPLICATION OF L. F. COWAN, FOR PERMISSION TO SELL CERTAIN PROPERTIES TO SONOMA WATER AND IRRIGATION COMPANY.

Application No. 13382.

Decided January 3, 1927.

TRANSFER—WATER UTILITY—TO SELL.—Application denied.

Knight, Boland and Christin, by *C. F. J. Kilmartin*, for Applicants.
R. N. Barrett, for Consumers League of Sonoma.
Harry T. Kyle, for Lincoln D. Green, a creditor of W. F. White.
Frank Sprague, for W. F. Turner.

BY THE COMMISSION.

OPINION.

In Application No. 13381, W. F. Turner, the holder of the record title, and Wm. F. White, who has a contract to purchase the water system from W. F. Turner, known as the Agua Caliente Water Works, ask permission to sell said water works to L. F. Cowan, who has agreed to pay for the properties $5,000 in cash and $5,000 par value of common stock of Sonoma Water and Irrigation Company.

In Application No. 13383, Boyes Hot Springs Co. asks permission to sell a public utility water system to L. F. Cowan for the sum of $1,000 cash.

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In Application No. 13382, L. F. Cowan asks permission to sell said two water systems to Sonoma Water and Irrigation Company for $12,532.05 in cash. L. F. Cowan agrees that if the applications are granted, he will, in order to assist the Sonoma Water and Irrigation Company, make a gift to said company in the sum of six thousand five hundred thirty-two and 5/100 dollars ($6,532.05), which represents the difference between what cash he is actually paying for said properties and the amount he is receiving therefor from the Sonoma Water and Irrigation Company.

R. C. Specht, a consulting engineer, and witness for applicants, testified that in his opinion the Agua Caliente Water Works properties had a present value of about $9,947.91 (Exhibit attached to petition shows $10,047.91) and the Boyes Springs properties $2,484.14, making a total of $12,432.05. There are about 105 consumers connected with the former and 46 consumers connected with the latter system. H. Noble, an assistant engineer for the Railroad Commission, testified that in his opinion the present value of the Agua Caliente system was $7,095 and that of the Boyes Springs system $2,466, making a total of $9,561. The view that we take of these matters makes it unnecessary to reconcile the differences in the present value of the properties as reported by the two engineers, nor to reconcile such values with the price which L. F. Cowan has agreed to pay for the properties.

It is urged on behalf of Sonoma Water and Irrigation Company that the purchase of the properties will increase its net revenue and that the gift which L. F. Cowan has agreed to make to the corporation will enable it to continue to pay dividends on its $100,000 of outstanding 8 per cent preferred stock and thereby prevent it from becoming insolvent. The $100,000 of stock was issued under the Commission's decision No. 968, dated October 31, 1921, as amended. In that decision the Commission allowed the company to expend 20 per cent of the proceeds from the sale of the stock to pay stock selling commissions and expenses. Records on file with the Commission show that the $100,000 of stock has been sold and that of the $80,000 of net proceeds, $55,289.07 was expended for the acquisition and construction of properties and the payment of indebtedness, leaving $24,710.93 on hand or due from stock purchasers.

The testimony shows that Sonoma Water and Irrigation Company now has a deficit and that its net earnings are not sufficient to cover its preferred stock dividend requirements. Of the aforementioned $24,710.93 the company now proposes to use $12,532.05 to acquire the water plants from L. F. Cowan, a director of the company, and for which he has agreed to pay $6,000 in cash and $5,000 of common stock of Sonoma Water and Irrigation Company. While it might be said that under the proposal outlined herein the properties will cost the

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company only $6,000, the fact remains that the approval of the sale of the properties to the company for $12,532.05 means that $6,532.05 obtained by the company from the sale of stock will be diverted to the payment of dividends. The gift of $6,532.05 by L. F. Cowan to the company, is, it seems to us, a subterfuge designed primarily for the purpose of making said amount available for the payment of dividends. Such a procedure will not be approved by the Commission.

Inasmuch as L. F. Cowan testified that he would not purchase the properties unless he were permitted to sell them to the corporation along the lines indicated herein, nothing will be accomplished by authorizing the transfer of said properties to L. F. Cowan. We therefore believe that Application No. 13381 and Application No. 13383 should be dismissed without prejudice and Application No. 13382 should be denied without prejudice.

ORDER.

Applications having been filed with this Commission to sell and transfer the public utility water plants referred to in the opinion which precedes this order, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that Application No. 13381 and Application No. 13383 should be dismissed without prejudice and that Application No. 13382 should be denied without prejudice;

It is hereby ordered, that Application No. 13381 and Application No. 13383 be and the same are hereby dismissed without prejudice, and that Application No. 13382 be and the same is hereby denied without prejudice.

Dated at San Francisco, California, this third day of January, 1927.

DECISION No. 17836.

IN THE MATTER OF THE APPLICATION OF COLONIAL IMPROVEMENT COMPANY, A CORPORATION, TO HAVE A STREET CROSSING AT GRADE CONSTRUCTED AND INSTALLED OVER AND ACROSS THE RIGHT OF WAY OF CENTRAL CALIFORNIA TRACTION COMPANY, A PUBLIC UTILITY CORPORATION, AT THE INTERSECTION OF HERBERT AVENUE, AS SAID AVENUE IS SHOWN ON THE OFFICIAL MAP OR PLAT OF COLONIAL ACRES NO. 3, AND THE RIGHT OF WAY OF SAID CENTRAL CALIFORNIA TRACTION COMPANY.

Application No. 12218.
Decided January 5, 1927.

GRADE CROSSING—ELECTRIC RAILROAD—TO CONSTRUCT.—Permission granted to board of supervisors of Sacramento County to construct Herbert avenue at grade across the tracks of Southern Pacific Company at Colonial Acres, after rehearing of the application of Colonial Improvement Company for such authorization.

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J. J. Henderson and *W. A. Green*, for Sacramento County.
Hinsdale and Otis, by *Hinsdale*, for Colonial Improvement Company.
Butler, Van Dyke and Desmond, by *G. M. Desmond*, for Central California Traction Company.

BY THE COMMISSION.

OPINION ON REHEARING.

This is an application of the Colonial Improvement Company and the county of Sacramento for a crossing at grade over the track of the Central California Traction Company in the vicinity of the city of Sacramento. A public hearing was held in Sacramento on April 16, 1926, and the applicant failing at that hearing to show sufficient public necessity to warrant the opening of the additional grade crossing, the application was denied by the Commission in its Decision No. 16867, dated June 9, 1926. A petition for rehearing was filed in this matter and on September 24, 1926, rehearing was held at Sacramento before Examiner Austin.

The Colonial Improvement Company is a corporation organized primarily for the purchase, subdivision and sale of real estate. It has during the past few years subdivided and promoted the sale of a tract of land known as Colonial Acres, lying immediately south of the city of Sacramento between Fourteenth avenue, which for a portion of its length forms the southerly city limits, and the private right of way of Central California Traction Company a half mile to the south. This tract has now been disposed of and is being built up by the purchasers.

The Colonial Improvement Company now contemplates the subdivision of a tract of some 200 acres lying south of the traction company line and between the track and the Fruitridge road, which is parallel to and one-half mile south of the railroad, and the crossing requested proposes the extension of Herbert avenue, one of the streets in the original subdivision, across the Central California Traction Company track into the new subdivision. Due to the fact that a portion of the property over which this extension of Herbert avenue would have to pass is under a different ownership, the proposed extension would not extend the entire distance to Fruitridge road. In order to reach the latter road a detour over certain other streets in the subdivision would be necessary.

Both Fourteenth avenue and the Fruitridge road extend westerly to the state highway or Upper Stockton road as it is known locally, a main north and south artery. The traction company track is laid in this highway south from Sacramento to a point midway between Fourteenth avenue and Fruitridge road, where it turns east into the private right of way above mentioned. The traction line crosses the track of Southern Pacific Company about two miles east of the state highway at separated grades.

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The nearest crossing to the west of Herbert avenue is Glenn avenue, 2360 feet distant, while Brighton road, 3360 feet to the east of Herbert avenue, crosses under the track of the traction company through the structure which carries the electric line over the main line of the Southern Pacific Company. Both of these roads extend the entire distance between Fourteenth avenue and Fruitridge road and the area lying between them and south of the traction company's right of way is at present undeveloped and without habitation of any sort. This is the tract which the Colonial Improvement Company now desires to subdivide as hereinbefore stated.

Of the roads described above, the state highway and Fourteenth avenue from the highway to a point in the vicinity of the intersection of Glenn avenue are paved and the other roads are of earth or surfaced with gravel. South of the track, Herbert avenue is graded but not at present traveled. The record shows that there is a possibility that Fruitridge road will be paved in the near future.

The Central California Traction Company offered no objection to the opening of this crossing, stating that the development of the tract would probably result in the company receiving additional revenue. The site of the crossing is level and the track tangent in both directions for some distance. There are no existing obstructions to the view and since streets are provided parallel and adjacent to both sides of the railroad right of way, there is sight possibility that the view will ever become badly obscured. The traction company operates six passenger trains daily each way at a speed approximately fifty miles per hour, It also operates two regular freight trains, and in the fruit season two additional freight trains at a speed of twenty-five miles per hour. These passenger movements are generally one and occasionally two-car trains, and the freight trains seldom exceed twelve or fourteen cars. Being lighter than steam trains and cars, they are more easily handled and can be more readily controlled in an emergency.

It appears that the opening of Herbert avenue will permit residents of Colonial Acres, living north of the traction company's line, to reach Florin and other points in that vicinity and will allow those residing south of Fruitridge road to reach East Sacramento by way of East Sixty-fifth street; also it will reduce the distance to Sacramento from that portion of the tract adjacent to the railroad right of way, but it will not materially shorten the distance from the central and southerly section of the tract. During the winter season Fruitridge road is frequently flooded and at times impassable, but if the road is paved this condition will disappear. Until this has been done, however, the proposed crossing would furnish a convenient outlet from the tract. There was also testimony to the effect that residents of the subdivision would use the crossing when traveling to and from Sacramento or in

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visiting the section lying immediately north of the tract, or in order to reach the traction company's station.

It is apparent that in this proceeding the crossing is sought primarily to serve the future needs of the community, rather than its present necessities. As we have stated, there are now no residences on the tract, but it is quite close to Sacramento and its settlement in the near future seems assured. It is true that in our former decision in this matter (Decision No. 16867) we held that it was not our policy to grant public grade crossings over railroad tracks merely to promote the sale of real estate or as a convenience to salesmen exhibiting the property to prospective purchasers, but that decision was predicted upon an incomplete record which did not disclose the facts in their entirety. It now appears that this subdivision is adjacent to the city of Sacramento and its development and settlement may reasonably be anticipated as a part of the necessary and logical expansion of the community. Therefore, it does not seem essential to await the actual settlement of the tract before granting access to it, nor should the crossing be withheld until such time as it has been settled, the residents being subjected in the meantime to the annoyance and inconvenience arising from the necessity of using circuitous routes in order to reach their homes. Sound policy requires, in the upbuilding of our communities, that prospective residents be assured of reasonable access to their homes, and after making their investments they should not be required to await the uncertain outcome of some future proceeding before the Commission. In other words, access to a given territory logically should precede its development and not follow it. We do not mean to sanction the practice of opening crossings indiscriminately to facilitate the subdivision of land, irrespective of its location, but our decision must be confined, as we have stated, to the legitimate and reasonably anticipated expansion of a community. Because of the dissimilar circumstances surrounding grade crossings in different localities, it is difficult to evolve any general principles applicable to proceedings of this nature; each case necessarily must be determined according to its own facts.

In view of the facts appearing in this record, the application will be granted and an order will be entered accordingly.

ORDER.

The board of supervisors of the county of Sacramento, State of California, having made application for authority to construct a public road known as Herbert avenue at grade across the track of Central California Traction Company, in the vicinity of the city of Sacramento, a public hearing having been held, the Commission being apprised of the fact, the matter being under submission and ready for decision.

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It is hereby found as a fact that public convenience and necessity require the establishment of a public crossing at grade at the point indicated; therefore,

It is hereby ordered, that permission and authority be and it is hereby granted to the board of supervisors of the county of Sacramento, State of California, to construct Herbert avenue at grade across the track of Central California Traction Company at the location shown by the map attached to the application.

Said crossing shall be constructed subject to the following conditions and not otherwise:

(1) The entire expense of constructing the crossing shall be borne by applicant. The cost of maintenance of that portion of said crossing up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Central California Traction Company. No portion of the cost herein assessed to applicant for the construction or maintenance of said crossing shall be assessed by applicant, in any manner whatsoever, to the operative property of Central California Traction Company.

(2) The crossing shall be constructed of a width not less than twenty-four (24) feet and at an angle of ninety (90) degrees to the railroad and with grades of approach not greater than three (3) per cent; shall be constructed subsequently in accordance with Standard No. 2 as specified in General Order No. 72 of this Commision, shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(4) If said crossing shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this fifth day of January, 1927.

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DECISION No. 17838.

IN THE MATTER OF THE APPLICATION OF THE CENTRAL MENDOCINO COUNTY POWER COMPANY FOR AN ORDER AUTHORIZING THE EXTENSION OF ITS TERRITORY UNDER ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 12811.

Decided January 5, 1927.

CERTIFICATE—ELECTRIC UTILITY—FRANCHISE—TO EXERCISE.—Certificate of applicant modified to permit exercise of privileges under franchise granted by the county of Mendocino to extend its service within townships 17, 18 and 19 north, range 14 west, townships 17, 18 and 19 north, range 13 west, townships 17, 18 and 19 north, range 12 west, M. D. B. and M., and to extend its electric transmission line from said territory to the plant of Snow Mountain Water and Power Company's plant in Potter Valley.

Edward Morris, for Central Mendocino County Power Company.
John F. Quinn, for O. L. Notley and D. Newell.
T. W. Dahlquist, for Peoples California Hydro-Electric Corporation.

WHITSELL, *Commissioner*.

OPINION.

In this proceeding, Central Mendocino County Power Company asks the Commission to make its order authorizing applicant to extend its electric service into certain parts of Mendocino and Humboldt counties, hereinafter described.

The Commission in its Decision No. 13577, dated May 17, 1924 (Application No. 8520), issued to Central Mendocino County Power Company a certificate of public convenience and necessity to exercise the rights and privileges conferred by Ordinance No. 215 of the board of supervisors of the county of Mendocino, adopted March 11, 1924. The certificate issued by the Commission, however, was limited to townships 17 and 18 north, in ranges 13 and 14 west, M. D. B. and M., and to the construction, operation and maintenance of an electrical transmission line from said territory to the Snow Mountain Water and Power Company's plant in Potter Valley.

Applicant has no franchise in Humboldt County, but will apply for such franchise if the Commission takes favorable action on this application.

A public hearing was held in the present matter at Willits, Mendocino County, on June 30, 1926, at which time applicant filed Exhibits 1 and 2, an amended description and map, respectively, of the territory in which applicant desires to extend its service.

The territory which is described in applicant's exhibits may be described roughly as that bounded on the south by a line approximately nine miles south of the town of Willits, in Mendocino County, extending from the Pacific Ocean to Lake County, on the west by the Pacific Ocean, on the north by a line approximately four miles north of the town of Garberville in Humboldt County extending from the

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Pacific Ocean to Trinity County and on the east practically by the west lines of Trinity, Tehama, Glenn and Lake counties.

John F. Quinn, representing O. L. Notley and D. Newell, protested the granting of the application in so far as the territory north of the Humboldt-Mendocino county line is concerned, on the ground that his clients would be in a better position to serve this part of the territory, they already having made plans to install a hydro-electric plant some three or four miles southeast of the town of Garberville. Protestant being given ten days' time to file further data, the matter was submitted.

On July 15, 1926, Oscar L. Notley petitioned the Commission for a certificate of public convenience and necessity authorizing him to supply electric energy to certain territory in Humboldt County. This petition, which was given Application No. 13033, being in conflict with the application of Central Mendocino County Power Company, in so far as the territory, north of the Humboldt-Mendocino county line is concerned, the Commission, under date of September 10, 1926, set aside the above mentioned order of submission entered in Application No. 12811 and ordered that same be consolidated with Application No. 13033 and set down for further hearing. Applicant, in this latter proceeding, having subsequently requested the Commission to dismiss his application, the Commission by Decision No. 17492, dated October 16, 1926, ordered that Application No. 13033 be dismissed.

Peoples California Hydro-Electric Corporation having, on October 15, 1926, filed a formal protest in opposition to the granting of Application No. 12811, and having asked for an opportunity to be heard, hearing was resumed in the matter at Willits, October 19, 1926.

It appears that Peoples California Hydro-Electric Corporation has acquired the electric system and properties formerly owned by Mendocino Electric Light and Power Company under authority of Decision No. 17393, of the Railroad Commission, dated September 25, 1926, and has secured by Decision No. 19448, dated October 13, 1926, permission from the Commission to acquire the electric system and properties of Fort Bragg Electric Company and that the territory in which Peoples California Hydro-Electric Corporation now serve and contemplate serving is included in the area described in applicant's Exhibits 1 and 2. It also appears that Point Arena Electric Light Company serves electric energy in the town of Covelo and to a limited extent in the territory immediately adjacent thereto.

Applicant, through its witness, Edward Morris, testified that it did not desire to extend its facilities in competition with any other utility in the territory, thus in effect modifying its application. It, therefore, appears that the territory which applicant desires to serve is not now, nor is there any immediate prospect of such territory, being served by any other electric utility.

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The largest portion of the territory in question is extremely mountainous, the main possibilities of development being around the town of Willits and in that area running northwesterly along the Redwood highway, some seventy-five miles, to the town of Garberville. Demand for power in this latter area is limited largely to summer resort business, there being but comparatively small acreage suitable for agricultural development along the highway; nor is there any acreage of importance in the entire territory outside of the Willits district capable of agricultural development except that in Round Valley, surrounding the town of Covelo. Mr. Morris testified that only a casual survey had been made of the cost of extending service to Garberville and that no close canvass had been made of the demands for electric service. No cost figures were presented by applicant except an approximate figure of $2500 per mile which was given by Mr. Morris as the estimated cost of extending transmission facilities from the town of Willits to the town of Garberville, a line distance estimated by Mr. Morris to be approximately fifty-five miles. Nor did applicant present any estimate of revenue to be obtained from prospective consumers.

Extension of electric facilities into any unserved territory, when service can be supplied at reasonable rates, is desirable and may be regarded as a public convenience and necessity. In the present instance it is clear that service to that territory which applicant proposes to serve from the proposed transmission line, must necessarily be rendered at less than cost, if the rates are not to be prohibitive. To render service under such conditions would mean that present consumers must pay higher rates, in effect subsidizing the costly extension or that a considerable financial loss would have to be borne by the utility for a number of years. Such financial loss might so impair applicant's financial standing that it would be unable to secure funds for future development in the area now being served, and might also result in inability to properly operate and maintain its present system. The Commission can not subscribe to any policy which furthers an ambitious extension program to the detriment of existing or prospective consumers in the area now served. At such time as showing is made that the territory in question can be served, either wholly or in part, by this or by any other utility, without burden to the areas then served, the Commission should look with favor upon the necessary extension. I believe, however, that applicant should at this time be authorized to extend its existing distribution facilities only within the limits of good distribution practice. Such extensions made in the normal manner will not impose any burdens on the company or its consumers. The present certificate does not permit this utility to serve as much territory as it can within the limits of good distribution practice. Authorization for extension of its service in township 19 north, in ranges 12, 13 and 14

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west, and townships 17 and 18 north, in range 12 west, M. D. B. and M., of Mendocino County will give applicant sufficient territory in which to fully expand its distribution system.

I, therefore, recommend the following form of order:

ORDER.

Central Mendocino County Power Company having requested the Railroad Commission for an order authorizing the extension of its territory under its certificate of public convenience and necessity, public hearings having been held in this proceeding, the matter being submitted, and now ready for decision:

The Railroad Commission hereby declares that public convenience and necessity require the amendment and modification of the Commission's Order of May 17, 1924, Decision No. 13577, granting a certificate of public convenience and necessity to Central Mendocino County Power Company; and

It is hereby ordered, that the certificate of public convenience and necessity granted to Central Mendocino County Power Company by the Commission in its Decision No. 13577, dated May 17, 1924, be and the same is hereby amended and modified to permit the exercise by Central Mendocino County Power Company of those rights and privileges granted under Ordinance No. 215 of the county of Mendocino within townships 17, 18 and 19 north, range 14 west, townships 17, 18 and 19 north, range 13 west, townships 17, 18 and 19 north, range 12 west, all M. D. B. and M., and to the operation and maintenance of the electrical transmission line from said territory to the Snow Mountain Water and Power Company's plant in Potter Valley.

It is hereby further ordered, that the application of Central Mendocino County Power Company, in so far as extending its electric facilities in the remaining territory prayed for, be and the same is hereby denied without prejudice.

The effective date of this order shall be twenty days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of January, 1927.

DECISION No. 17843.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER ITS COMMON CAPITAL

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STOCK TO THE AMOUNT, IN THE MANNER AND FOR THE PURPOSES SET FORTH HEREIN.

Application No. 13389.
Decided January 5, 1927.

SECURITIES—STOCK—TO ISSUE AND SELL.—Application of Pacific Gas and Electric Company for authority to issue and sell $5,287,000 of common stock, and to use the proceeds derived from the sale thereof to reimburse its treasury on account of capital expenditures, granted.

C. P. Cutten, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding the Railroad Commission is asked to make an order authorizing Pacific Gas and Electric Company to issue and sell, at par, $5,287,000 of its common capital stock for the purpose of reimbursing its treasury and of financing the cost of additions, betterments, extensions and improvements.

Pacific Gas and Electric Company has advised the Commission that on October 11, 1926, its stockholders voted to amend its articles of incorporation so as to provide for a total authorized capital stock of $160,000,000, divided equally into 6 per cent cumulative preferred stock and common stock. As of October 31, 1926, it reports its capital stock outstanding and subscribed for as follows:

First Preferred Stock.

Outstanding—		
Shares—par value		$60,607,250 00
Warrants for fractional shares		1,281 91⅔
Subscribed but not issued		1,832,200 00
Fully paid but not yet issued		700 00
Total		$62,441,431 91⅔

Common Stock.

Shares—par value	$68,642,333 33	
Less—held by subsidiaries	15,848,433 33	
Balance		$52,793,900 00
Warrants for fractional share		7,115 00
Subscribed but not issued		64,100 00
Total		$52,865,115 00

In addition the company reported in its treasury, neither sold nor subscribed $2,033,100 of preferred stock and $267,500 of common stock, the issue of which had been authorized by former decisions of the Commission. Recently, by Decision No. 17801, dated December 23, 1926, the company was authorized to issue and sell at par, an additional $1,000,000 of preferred stock and $1,000,000 of common stock.

In making the present request to issue $5,287,000 of common stock the company reports the necessity of making further capital expendi-

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tures on its system and on the system of Mount Shasta Power Corporation, a subsidiary, and it asks permission to use the proceeds to meet in part the expenditures heretofore reported to the Commission in Application No. 13291, which expenditures are as follows:

Unreimbursed capital expenditures at August 31, 1926, of Pacific Gas and Electric Company and Mt. Shasta Power Corporation (Exhibit "B")	$6,631,162 88
Unexpended balance of capital expenditures authorized at August 31, 1926, by Pacific Gas and Electric Company (Exhibit "C")	7,230,169 53
Estimated cost of new construction, Pacific Gas and Electric Company for 1926 and 1927 (Exhibit "D")	8,000,000 00
Unexpended balance of capital expenditures authorized at August 31, 1926, by Mount Shasta Power Corporation (Exhibit "E")	1,126,208 61
Total	$22,987,541 02

In order to meet in part these expenditures the Commission heretofore has authorized the company to use unexpended proceeds amounting to $605,281.73 on hand on August 31, 1926, received from the sale of stock and bonds, and the proceeds to be received from the sale of $2,957,100 of preferred stock theretofore authorized to be issued but unsold on that date, and the proceeds to be received from the sale of the $2,000,000 of common and preferred stock authorized to be issued by Decision No. 17801. Except as to these amounts no provision has been made to finance the proposed expenditure of $22,987,541.02 through the issue of securities. While we are willing to authorize applicant to issue additional common stock in the amount of $5,287,000 for the purpose of financing in part said expenditures, such authorization should not be construed as an approval of the total expenditures of $22,987,541.02.

Applicant proposes to offer its stock to its present common stockholders at the par value thereof. The matter of authorizing applicant to issue and sell common stock at par, at a time when the market value for such stock was above par, was considered by the Commission in Decision No. 15874, dated January 19, 1926 (Vol. 27, Opinions and Orders of the Railroad Commission of California, pages 453-457). We believe that applicant's request for permission to issue and sell the $5,287,000 of common stock at par should be granted for the reasons set forth in Decision No. 15874, to which reference is hereby made.

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue and sell common stock, and the Railroad Commission being of the opinion that this is a matter in which a public hearing is not necessary and that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purposes specified herein and that the

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expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered that Pacific Gas and Electric Company be and it hereby is authorized to issue and sell, on or before December 31, 1927, at not less than the par value thereof $5,287,000 of its common capital stock and to use the proceeds to reimburse its treasury in part on account of capital expenditures of $6,631,162.88 made prior to August 31, 1926, and/or to finance in part such cost of the extensions, additions, betterments and improvements to its facilities and to those of Mount Shasta Power Corporation, described in Exhibits "B," "C," "D" and "E" filed in Application No. 13291, as is properly chargeable to fixed capital accounts under the uniform system of accounts prescribed or adopted by this Commission, provided that said $5,287,000 par value of common stock may only be sold to applicant's common stockholders or subscribers to purchase additional shares of its common stock in the proportion of one (1) share of such additional common stock to each ten (10) shares of said common stock owned or subscribed for by each of said stockholders and subscribers..

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof, and, further, that applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this fifth day of January, 1927.

DECISION No. 17845.

IN THE MATTER OF THE APPLICATION OF THE WEST COAST TRANSIT COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING THE OPERATION OF AUTOMOTIVE PASSENGER STAGE SERVICE BETWEEN OAKLAND, RICHMOND AND INTERMEDIATE POINTS ON THE ONE HAND AND SAN QUENTIN, SAN RAFAEL AND INTERMEDIATE POINTS ON THE OTHER HAND IN CONJUNCTION WITH AND AS A PART OF ITS EXISTING AUTHORIZED STAGE OPERATION BETWEEN SAN FRANCISCO, EUREKA, CRESCENT CITY, RED BLUFF AND OTHER POINTS NOW SERVED BY SAID CORPORATION.

Application No. 11458.

Decided January 6, 1927.

CERTIFICATE—AUTO STAGES—CONNECTING SERVICE.—Application denied for lack of showing of public convenience and necessity.

H. C. Nelson and *Chas. A. Beck*, for Applicant.

Brobeck, Phleger and Harrison, by *Frank S. Richards*, for Key System Transit Company, Protestant.

R. W. Palmer and *J. J. Geary*, for Northwestern Pacific Railroad Company, Protestant.

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Earl A. Bagby, for California Transit Company, Protestant.
E. W. Hollingsworth for Oakland Chamber of Commerce.
C. E. Peterson, for Southern Pacific Company, Protestant.
Devlin and Brookman, by *Douglas Brookman*, for Santa Rosa, Petaluma, Sausalito Auto Stage Company.
Chas. W. Byrnes, for San Quentin Stage Company, Protestant.

BY THE COMMISSION.

OPINION.

West Coast Transit Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile stage service for the transportation of passengers between Oakland, Emeryville, Berkeley, Albany, El Cerrito and Richmond ferry points on the one hand, and San Quentin ferry point and San Rafael and intermediate points on the other hand, no local service to be rendered locally between Oakland and Richmond ferry point nor between San Rafael and San Quentin ferry point.

Applicant seeks authority to operate the requested service in conjunction with and a part of its present authorized service between San Francisco and Eureka, Crescent City and other points.

Public hearings on this application were conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

Applicant proposes to charge rates in accordance with a schedule marked "Exhibit A" as filed with its application herein; to operate on a schedule of two-round trips daily; and to use equipment of the same type now operated on its line between San Francisco and Eureka or other equipment of an equivalent standard.

Applicant relies as justification for the granting of the desired certificate upon the following alleged facts: (1) that there are at present over 300,000 people residing in the so-called East Bay territory; (2) that there is considerable passenger traffic moving between the East Bay territory and points in northern California which are served by applicant's authorized lines and that passengers are now obliged to use street cars in the East Bay territory to the Southern Pacific Company or Key System Transit Company ferry and after the ferry trip to San Francisco are compelled to use street cars, or other conveyances, to reach the San Francisco terminal of the applicant at Fifth and Mission streets; (3) that the inauguration of the proposed service will result in a considerable saving in time for the public by reason of a connecting stage being operated from San Rafael and routing the "East Bay" traffic direct over the Richmond-San Rafael ferry and directly over the highway to the various East Bay communities; (4) that at the present time, by reason of the absence of transportation facilities as proposed, the passenger traffic is obliged to follow a circuitous route, either via San Francisco or Sausalito, requiring much

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time and frequent changes; (5) and that applicant is aware of a considerable demand on the part of the public for the establishment of the direct and through service between the East Bay territory and the northern California points reached by applicant's existing service.

Burr P. McConnaha, president and general manager of applicant, testified that the proposed service would be operated solely in connection with the north and south bound main line schedules on the authorized route, connections being made at San Rafael; that the Oakland-Eureka rates would be the same as the existing San Francisco-Eureka rates; and that the Oakland terminus would be located at some convenient point in the business portion of that city. This witness described the development now under way in Lake County and at other points, due principally to the opening of the Redwood highway which has resulted in the establishment of many new hotels and summer resorts. By personal contact with the traveling public at his Eureka office, witness is familiar with inquiries for the establishment of the proposed service, such inquiries having averaged approximately one day during the season of summer and vacation travel. He had made no investigation as to the demand for service as existing in the East Bay territory, knew of no demand for service between Oakland and San Rafael, nor of any inquiry or demand originating in Albany, El Cerrito, Barkeley or Emeryville.

F. T. Morse, conducting a travel bureau in Oakland, testified that he was formerly employed as a ticket agent by the California Transit Company and while so engaged had received frequent inquiries regarding transportation to Eureka and points on the Redwood highway. Formerly this business was handled from Oakland via the California Transit Company to a connection with the Dunham stage line, which latter line transported passengers to a connection with applicant's line at Healdsburg. This routing was discontinued when applicant acquired the portion of the Dunham stage lines which served Healdsburg.

Emil Iverson, manager of the Eureka Inn, at Eureka, testified that he had received numerous requests for information regarding stage service from Eureka to East Bay points.

Mrs. E. Antrisn, a resident of Oakland and a property owner at Alder Creek, testified that she traveled between Geyserville and Oakland now making the trips via San Francisco and by ferry between that city and Oakland. This witness would use the proposed service if same were authorized.

Barton Coombs, a resident of Geyserville and a student at the University of California at Berkeley, testified that he now traveled between Geyserville and Berkeley by railroad for the reason that he objected to the transfer necessary via the San Rafael-San Quentin-Richmond route. Witness was of the opinion that he would use the proposed route, if

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authorized, although stating that if the time were shorter by the train he would continue to use the present train service.

A. F. Turner, employed as ticket agent for applicant at Eureka, testified that practically two-thirds of the inquiries received by him from the public were regarding service to East Bay points and that he has known of and advised the public regarding the service now available via existing transportation lines between San Rafael, Richmond and the East Bay communities.

J. E. Benbow, residing at Eureka and Garberville, testified that he was engaged in the development of property near the Redwood highway and at a point 78 miles south of Eureka. Witness' property is at a point 75 miles from Willits by railroad and 28 miles from South Fork. The witness described the general development along the Redwood highway since its opening to travel and that no portion of said highway was served by railroad. Witness was constructing a hotel about 3 miles south of Garberville, on the highway, and had knowledge of other and substantial development which was either contemplated or in progress.

Fred Hartsook, residing in San Francisco, testified that he had recently constructed a hotel and 33 cottages at a location on the Redwood highway, approximately 84 miles south of Eureka. Witness has already expended approximately $150,000 in his development work and still has further expenditures in prospect. The proposed extension of service would enable stage passengers to travel to and from his hotel and resort by using the facilities of one company and such condition was considered desirable, although the witness was not familiar with existing routes via San Rafael and San Quentin.

E. W. Hollingsworth, commerce counsel for the Oakland Chamber of Commerce, and W. L. Miller, secretary-manager of the same organization, testified in behalf of applicant. Both witnesses expressed their belief that the proposed service would be a convenience to the residents of the East Bay communities, although no specific investigation had been made regarding the proposed or existing service.

Two other witnesses testified in behalf of applicant. These witnesses now travel between Berkeley and Healdsburg and between Oakland and Ukiah, using train service to San Francisco and ferry between Oakland or Berkeley and San Francisco. Both witnesses were of the opinion that the service as proposed would be more satisfactory than the ferry and train service which they were now patronizing.

R. T. Bettum, a witness for applicant, testified that he was connected with the Clear Lake Beach Company and interested in the development of resort property in Lake County. Clear Lake Beach is now served by applicant via Ukiah. At this point there has been expended over $350,000 in the erection of a dance pavilion, electric light plant,

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cafe, 110 modern cottages, and concrete curbing and sidewalks. There are 4400 acres under development in this project in which 92 miles of highway are to be constructed. Approximately 6500 lots have already been sold. Ninety per cent of the business sold has been to northern California purchasers and witness estimates that of 1500 lots sold, with which he was familiar, 90 per cent were to residents of East Bay communities. The witness further testified that other resort and vacation property was in a similar state of development and that the proposed service would facilitate access to the Lake County resorts via Ukiah.

Frank Nellist, superintendent of the Ukiah-San Francisco division of applicant's lines, testified regarding the service now rendered and that extra cars were maintained at Santa Rosa, Ukiah and Willits to care for overloads and peak traffic conditions. Witness stated that he had personally received inquiries for direct transportation to East Bay communities.

The Oakland Chamber of Commerce, by a resolution of its board of directors, filed herein as an exhibit, endorses the application.

The granting of this application is protested by Key System Transit Company, Southern Pacific Company, Northwestern Pacific Railroad Company, California Transit Company, and San Quentin Stage Company.

R. F. Allen, secretary-manager of San Quentin Stage Company, testified that during the past four years he had heard of no demand for through service from San Rafael to the East Bay cities; that his company was now operating on a forty-minute headway between Point San Quentin and San Rafael, connecting with the scheduled trips of the Richmond-San Rafael Ferry Company; that the road conditions between San Rafael and San Quentin had been very bad for a long time and were but recently improved. That due to the poor condition of the road the speed over some portions had to be limited to 15 miles per hour. The running time between point San Quentin and San Rafael is now 15 minutes, and two White busses of 18-passenger capacity are now used to serve the limited patronage offering, an average of 60 to 75 passengers per day being transported on the twenty-one scheduled trips. This witness further testified that he kept posted as to the schedules of stage lines operating into San Rafael, and advised passengers as to such schedules when inquiry was made. Witness further stated that he had heard no complaint as to the service or rates of his company and that he had always been willing to participate in through rates with any carrier desiring to establish same. By reason of the limited patronage enjoyed by this company, the addition of any service which would divert any of the business would imperil the ability of this protestant to continue satisfactory service, and oper-

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ation over indifferent roads has been regularly maintained for many years.

Two witnesses testified regarding the satisfactory service rendered by the line of the San Quentin Stage Company and as to the convenience afforded by such line in connection with the service of the Richmond-San Rafael ferry. Neither witness knew of any complaint as to inadequacy of service or necessity for additional service.

Geo. H. Harris, general manager of Key System Transit Company, described the service available by the lines of his company from the Richmond terminal of the Richmond-San Rafael ferry to the cities in the East Bay territory. At the time of the hearing there were 23 round trips available between the East Bay territory and San Rafael by the use of the facilities of Key System Transit Company, the Richmond-San Rafael Ferry Company and the San Quentin Stage Company. The service to the Richmond ferry terminal of the Richmond-San Rafael ferry was first established on May 1, 1915, and is rendered by certain cars of the Oakland-Richmond line which are operated to the ferry terminus connecting with the ferry service. The communities at Richmond, El Cerrito, Albany, Berkeley and Emeryville are all directly served by this line, which terminates at Seventh street and Broadway, Oakland. By the use of transfer privileges the entire communities of Oakland, Berkeley and Alameda are served by this combined routing. The expense of operating the service beyond the Standard Oil works at Richmond to form connection with the Richmond-San Rafael ferry approximates, under present conditions, $12,700 per year, and the patronage accorded the line shows an average of 5921 pasengers per month during the period April to December, 1925, inclusive.

Witness on behalf of protestants Southern Pacific Company and Northwestern Pacific Railroad Company testified as to the service offered by their respective companies and as to the frequency of service as regards ability to journey via the ferry schedules between San Francisco and Oakland. Both these protestants claim their existing facilities are ample to care for any demands of traffic and that further service would be supplied if it were justified by public demand; that no complaint has been made by anyone regarding service, rates or facilities; and that present travel conditions do not justify the establishment of an additional and competing service over the route as herein proposed by applicant.

A witness for protestant California Transit Company testified that his company through its connections handled traffic between Oakland and Santa Rosa. At Santa Rosa connection is now made with the Eureka-San Francisco line of applicant. Checks of travel during the

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months of January and September, 1925, show the following business to have been handled:

From	*To*	*Month*	*Number passengers One way*	*Round trip*
Oakland	Santa Rosa	Jan. 1925	4	2
Oakland	Santa Rosa	Sept. 1925	16	4
Sacramento	Santa Rosa	Jan. 1925	66	3
Sacramento	Santa Rosa	Sept. 1925	98	0
Santa Rosa	Oakland	Jan. 1925	15	0
Santa Rosa	Oakland	Sept. 1925	12	0
Santa Rosa	Sacramento	Jan. 1925	108	0
Santa Rosa	Sacramento	Sept. 1925	216	0

Three round trips daily are scheduled between Oakland and Santa Rosa by connection at Napa with the lines of the Dunham stages. Travel statements were filed as exhibits by this protestant showing many vacant seats available on schedules originating and terminating at Oakland.

We have given careful consideration to the evidence and exhibits herein.

Applicant proposes a service of two round trips daily between Oakland and San Rafael, connecting at the latter point with its main line stages as regards service to and from points north of San Rafael. No need has been shown for any local service between Oakland or intermediate points to San Rafael and no showing has been made that would justify the establishment of a duplication of existing service in order to care for such through passengers who might desire to use the facilities of this applicant between Oakland and points on the applicant's line north of Windsor, it having been stipulated that no through passengers would be handled originating at or destined to points south of Windsor. The territory proposed to be served is amply supplied with transportation against which service there has been no complaint. A combination of the facilities of the Key System Transit Company, the Richmond-San Rafael Ferry Company, and the San Quentin Stage Company offers twenty-three round trips daily as compared to applicant's proposal of two round trips.

The following comparison of fares shows that the rates via the existing route are most favorable for the public.

Between San Rafael and	*Railway, ferry and bus*	*Applicant's proposed rate*
Oakland	51	55
Emeryville	51	50
Berkeley	51	45
Albany	51	45
El Cerrito	45	45
Richmond Ferry Point	33	35

The fare via existing lines includes transfer privileges on the traction lines of the Key System Transit Company, enabling patrons to originate at or reach destinations in sections of Berkeley, Emeryville,

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Albany, Alameda and Oakland without additional cost. Patrons of the proposed service, unless boarding stages of the applicant at its Oakland Terminal or along the route, would be required to pay a minimum of seven cents or the local street car fare of the Key System Transit Company.

In addition to the direct service now available to the public between the East Bay territory and San Rafael there is abundant service via San Francisco and Sausalito. Prospective patrons of applicants's stage line can avail themselves of over one hundred round trips of the combined surburban train and ferry service as operated by the Southern Pacific Company and Key System Transit Company. The public desiring to journey by train have available the schedules of the Northwestern Pacific Railroad Company with two round trips daily between San Francisco and Eureka, and in addition one round trip to each Ukiah and Healdsburg.

We find no evidence as to any demand on the part of the public for the establishment of the proposed service indicating that it would be patronized to the extent of defraying the bare cost of operation. The existing service is ample and is available to the public at a lesser rate than is herein proposed by applicant. It is therefore our conclusion from consideration of the record herein, and we hereby find as a fact, that no showing of public convenience and necessity has been made by applicant which would justify the granting of the application.

ORDER.

Public hearings having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and based its order on the finding of fact as appearing in the opinion which precedes this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the operation by West Coast Transit Company, a corporation, of an automobile stage line for the transportation of passengers between Oakland, Richmond and intermediate points on the one hand and San Quentin, San Rafael and intermediate points on the other hand in conjunction with and as a part of applicant's existing authorized stage operation between San Francisco, Eureka, Crescent City, Red Bluff and other points now served by said applicant; and

It is hereby ordered, that this application be and the same hereby is denied.

Dated at San Francisco, California, this sixth day of January, 1927.

DECISION NO. 17846.

IN THE MATTER OF THE APPLICATION OF LEWIS A. MONROE AS AGENT FOR MOTOR SERVICE EXPRESS, INC., AND LOS ANGELES-NEWPORT FREIGHT LINE FOR AN ORDER GRANTING PERMIS-

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SION TO ESTABLISH A CHARGE FOR JOINT PICKUP SERVICE WITHIN THE CITY OF LOS ANGELES.

Application No. 13061.
Decided January 6, 1927.

RATES—MOTOR TRUCKS—JOINT PICKUP SERVICE.—Application granted.

Lewis A. Monroe, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application filed by Lewis A. Monroe, agent for Motor Service Express, a corporation, and Los Angeles-Newport Freight Line, G. J. Reis, owner, hereinafter referred to as the Motor and Newport, respectively, seeking permission under the provisions of chapter 213, Statutes of 1917, to amend the rules governing the minimum revenue charge in connection with pickup service at Los Angeles. The rates now applicable are published in Motor Tariff C. R. C. No. 2 and Newport Tariff C. R. C. No. 4 from points in a defined zone within the city of Los Angeles to various suburban points of destination.

The proposed joint minimum charge rule is set forth in Exhibit "A" attached to and made a part of the application.

A public hearing was held before Examiner Geary at Los Angeles December 7, 1926, and the matter having been duly submitted is now ready for an opinion and order.

The Motor handles package freight from Los Angeles to Anaheim, Ocean Park, San Bernardino and numerous intermediate points, and Rule 1(b) of Tariff C. R. C. No. 2 defines the zone in Los Angeles from which the rates apply. Rule 1(d) provides that the commodity package rates named will only govern where a sufficient number of packages are tendered at one time and at one place to return revenue in an amount of $1 or more.

The Newport likewise handles freight in small packages from Los Angeles to Newport Beach, Laguna Beach and numerous intermediate points and its Tariff C. R. C. No. 4 contains the rules describing the zone limits of Los Angeles and the minimum charge, which is similar in all respect to the rules published in tariff of the Motor.

A witness testified that applicants are now operating a joint terminal depot at 454 South Hewitt street, Los Angeles, and that the pickup service for both lines is performed by the Motor under a contract with the Newport covering this pickup service for the latter line.

The proposed change will have the effect of eliminating the duplication of the required minimum revenue of $1 for each carrier and make the commodity package rate applicable when the total revenue at pickup point in Los Angeles for line haul traffic via the combined car-

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riers totals $1. This adjustment results in a reduction in charges and a more convenient service to the shipping public.

There were no appearances in opposition to the granting of the petition.

Upon consideration of all the facts of record we are of the opinion and find that the joint pickup charge as set forth in Exhibit "A," attached to the application, should be established and that the application should be authorized.

ORDER.

This application having been heard and submitted by the parties, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion preceding this order, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that Motor Service Express, Inc., and Los Angeles-Newport Freight Line be and they hereby are authorized to publish and file a tariff setting forth the joint pickup charge and rules as shown in Exhibit "A" attached thereto and made a part of the application.

Dated at San Francisco, California, this sixth day of January, 1927.

DECISION No. 17848.

R. MORRIS

vs.

HAROLD J. COWDREY, ELLIS E. WOOD AND HAROLD J. COWDREY, DOING BUSINESS UNDER THE FICTITIOUS NAME OF MORAGA REDWOOD HEIGHTS WATER COMPANY.

Case No. 2262.

Decided January 6, 1927.

SERVICE—WATER UTILITY—INADEQUATE SUPPLY—RULE AND REGULATIONS.—Finding that the water supply of defendant utility is inadequate and subject to pollution, the Commisison orders said company to file detailed plans for improving the service and increasing the supply, and also rules and regulations for the management of the system and the elimination of discrimination.

Ben F. Geis, for Complainant.
Ellis E. Wood and *Harold J. Cowdrey,* for Defendants.

BY THE COMMISSION.

OPINION.

In this proceeding R. Morris has filed a complaint in which it is alleged that Ellis E. Wood and Harold J. Cowdrey, doing business under the fictitious name of Moraga Redwood Heights Water Company, are failing to render adequate water service from a public utility water system serving a tract of land known as the Moraga Redwood Heights, located in Contra Costa County, that much inconvenience

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is caused thereby, and that the defendants have made no effort to remedy the situation. The complaint further alleges that a certain purported transfer of the water system from Ellis E. Wood to Harold J. Cowdrey is void because no authority was obtained from the Railroad Commission for the transfer.

The defendants made no formal answer.

A public hearing was held before Examiner Satterwhite at Sequoya September 20, 1926, after all interested parties had been notified and given an opportunity to appear and be heard.

The evidence shows that the defendant Ellis E. Wood owns and operates a small water system on the Moraga Redwood Heights tract, situated about ten miles east of Oakland, in Contra Costa County. This water system was installed in 1912 to aid the sale of lots in the above tract, containing forty-three acres, of which approximately twenty-seven acres have been subdivided. There have been built in this tract many summer and country homes and at present there are forty-six active consumers on the system, sixteen of whom are permanent residents requiring water continuously throughout the year. The remaining consumers use water only during the summer season. All service is at flat rates.

The water supply is obtained from springs developed on the steep hillside on the easterly portion of the property and is stored in a small wooden tank from which it is delivered directly into the distribution mains by means of a pump operated by a three horsepower gasoline engine. Any excess water above demands is stored in a second wooden tank located upon the ridge above the tract.

Mr. Wood acquired the above property, including the water system, in 1914, and has recently transferred the unsold lots in the tract to defendant Harold J. Cowdrey, who has been operating the water system at the request of and as the agent for defendant Wood, who is still the owner of the water system.

The testimony shows that the existing water supply is entirely inadequate for even the barest necessities of the present consumers. In addition to this, the State Board of Health has now condemned the supply as polluted. According to the testimony of E. A. Reinke, one of the engineers of the State Board of Health, the samples of water from the springs showed gross pollution. He was unable to assign the direct cause of this condition, but indicated that the supply was subject to surface contamination apparently having its source in the cesspools of the houses located upon the hill above the springs. This board, however, has indicated that by the installation of certain suggested improvements in the methods of collecting the water, together with chlorination, the supply can be made entirely safe for domestic purposes. The location of this tract is such that there is no other

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water system or source of additional water available except at such a distance as to render the cost absolutely prohibitive. The location of the various houses upon the steep hillside naturally results in an unequal distribution of the water by reason of the fact that the consumers at the lower elevations receive much better pressure, and when using water make it difficult for those located above to secure service. These natural handicaps have been seriously aggravated by the fact that defendants have made little or no effort to repair and maintain the system and have had no local representative to take responsible charge of the plant. The pump and motor are not housed and the upper storage tank is in such a state of disrepair that it can hold only a small part of its total capacity. In this connection it might be well to point out that the general attitude of defendants in the operation of this system is well illustrated by the fact that the consumers donated to the utility a tank and had it delivered at the proper location for the purpose of replacing the dilapidated upper regulating tank, but the defendants failed to place it in service, apparently upon the claim that the water available from the springs was insufficient to require greater storage than that afforded by the existing tank in spite of its condition. The result of these conditions has been that during the summer months when a few hours' pumping per day exhausts the entire supply of water, the consumers have been forced to collect the water when available in various receptacles in order to have any supply on hand for household purposes.

During 1925 the residents of the tract made up a fund of about $400 for general improvement work in the community, a large amount of which was turned over to defendant Wood for the purpose of improving the water system and water supply. An investigation and report was made by a water supply expert, who recommended the construction of a tunnel to further develop the production from the springs. A 40-foot tunnel was constructed, as suggested, but the output of water was not increased to any material degree.

The evidence shows that water from the springs has been supplied without charge to the Redwood Inn, located near Sequoya station outside the boundaries of the Moraga Redwood Heights tract. This service has been rendered under the terms of a certain agreement entered into by and between Ellis E. Wood and Conrad Williamson, dated February 8, 1916, and attached to the deed by which the inn property was conveyed by Wood. This agreement granted to Williamson the right to certain waters from a box located in the Moraga Redwood Heights source of supply. The agreement does not definitely specify the quantity of water reserved other than that the supply pipe is to be one inch in diameter, together with the statement that the amount of water should be sufficient to supply the inn and one small

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house. The right to the remaining portion of water is expressly reserved to Wood. The evidence clearly shows that this agreement granting a purported water right to said Williamson was entered into at a time subsequent to the dedication of the entire water supply to the public use and therefore is subject to the regulation of the Railroad Commission. Because of the location of the pipe serving the inn, water has been taken by this user upon more favorable conditions than many of the regular consumers. This service, therefore, has resulted in an unfair discrimination and should be discontinued and the inn property placed upon the same operating basis as the other consumers. This may be accomplished by collecting the flow of all springs in a common receiver and distributing the water to the consumers from such receiver.

The evidence shows that the present supply is wholly inadequate for the requirements of the community. This is caused primarily by the actual physical limitations of the water supply in this area. It is further recognized that there is no certainty of obtaining an increased or adequate water supply from further tunneling or by well boring in that particular locality. The present source possibly may be further developed, or a wet winter perhaps may increase the supply, but if these conditions do not bring additional water the consumers must face the unfortunate fact that the water supply will continue to be inadequate for their proper needs and therefore must, by conservative use of water, make the limited quantity available go as far as possible. However, it is clear that Mr. Wood has been very negligent in his conduct of the affairs of this system and has wholly failed in his duty to the public as the operator of a public utility in taking no reasonable precautions to properly conserve the available water or make equitable and fair distribution thereof. Defendant Wood will be expected to take immediate steps to collect all water available in a suitable sump or tank; to place a responsible party in charge of the plant, and completely meter all services in order to further conserve the supply, reduce possible careless use of water and more equitably distribute the charges for service among the consumers according to their actual use of water. Provisions for carrying out these requirements will be set forth in the following order.

Should the installation of the improvements outlined above result in increasing the cost of providing service beyond the revenues produced by the existing rates, it may be necessary for this utility to make application to this Commission for an adjustment of the rate schedule under which it is now operating. In this connection it should be noted that several of the consumers testified that they would not protest against any reasonable increase in rates provided the service rendered was raised to some reasonable standard of efficiency under the conditions existing in the area served.

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ORDER.

Formal complaint having been made as entitled above, a public hearing having been held, the matter having been submitted, and the Commission being now fully informed thereon;

It is hereby ordered, for the reasons set out in the opinion which precedes this order, that Ellis E. Wood, doing business under the fictitious name and style of Moraga Redwood Heights Water Company, be and he is hereby directed to file with this Commission, subject to its approval, the following plans:

1. Detailed plans shall be filed within thirty days from the date of this order, outlining a program for the complete metering of all active service connections on the above water system on or before the first day of June, 1927.

2. Within thirty days from the date of this order detailed plans shall be filed setting forth the methods to be adopted to manage and operate this water system in the future and the improvements to be installed for the proper conservation of the waters produced from the springs used to supply the water for this system.

It is hereby further ordered, that Ellis E. Wood, doing business under the fictitious name and style of Moraga Redwood Heights Water Company, be and he is hereby directed to file with this Commission within sixty days from the date of this order revised rules and regulations governing the relations with consumers, said rules to provide, among other things, for a schedule restricting the hours during which water may be used by consumers for lawn and garden irrigation during the summer period of low flow of the springs furnishing the water supply for this system, said rules and regulations to become effective only upon acceptance for filing by this Commission.

It is hereby further ordered, that Ellis E. Wood, doing business under the fictitious name and style of Moraga Redwood Heights Water Company, be and he is hereby directed to discontinue within thirty days from the date of this order, the method heretofore practiced in serving water to Conrad Williamson for use upon the Redwood Inn properties, and thereafter render service of water to said Williamson upon the same basis as that of the other consumers receiving water from this system, and within ten days after such change has been made said Ellis E. Wood shall notify this Commission in writing to that effect.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this sixth day of January, 1927.

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DECISION No. 17853.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL FIFTEEN MILLION DOLLARS FACE VALUE OF ITS REFUNDING MORTGAGE GOLD BONDS, SERIES OF FIVES, DUE 1951.

Application No. 13438.

Decided January 7, 1927.

SECURITIES—BONDS—TO ISSUE AND SELL.—Southern California Edison Company authorized to issue and sell at not less than 95 per cent of face value and accrued interest, $15,000,000 of refunding mortgage gold bonds, Series of Fives, due 1951, and to use the proceeds from the sale of same to pay $991,000 of 7 per cent debentures, and short term notes; and to reimburse its treasury for capital expenditures.

B. F. Woodward, for Applicant.

BY THE COMMISSION.

OPINION.

Southern California Edison Company asks permission to issue and sell at not less than 95 per cent of their face value and accrued interest, $15,000,000 of its refunding mortgage gold bonds, series of fives, due 1951, and use the proceeds for the purposes hereinafter stated.

As of November 30, 1926, Southern California Edison Company reports $123,321,750 par value of stock outstanding segregated as follows:

Original preferred stock	$4,000,000 00
Preferred—Series A, 7 per cent	25,430,900 00
Preferred—Series B, 6 per cent	31,251,975 00
Common stock	54,945,625 00
Subscribed—preferred stock	4,327,075 00
Subscribed—common stock	3,366,175 00
Total	$123,321,750 00

The $54,945,625 of common stock includes the proportion of common stock controlled by the company through the ownership of Pacific Light and Power Corporation stock, $10,836,628, leaving the net amount of common stock outstanding at $44,108,997.

In Exhibit No. 5 applicant reports its bonded debt as of November 30, 1926, at $117,906,700, which consists of the following bond issues:

Title of bond	*Outstanding*
Southern California Edison Co. Ref. Mtg. Gold 6s, 1943	$26,500,000
Southern California Edison Co. Ref. Mtg. Gold 5s, 1951	40,000,000
Southern California Edison Co. Gen. and Ref., 25 years, 5½s, 1944	10,225,000
Southern California Edison Co. Gen. and Ref., 25 years, 5s, 1944	10,000,000
Southern California Edison Co. Gen. Mtg., 30 years, 5s, 1939	13,360,000
Pacific Light and Power Corp. 1st and Ref., 5s, 1951	5,968,000
Pacific Light and Power Co. 1st Mtg. 5s, 1942	5,903,000
Mentone Power Company 1st Mtg. 5s, 1931	37,000
Mount Whitney Power and Elec. Co. 1st Mtg. 6s, 1939	3,248,000
Santa Barbara G. & E. Co. 1st Mtg. 5s, 1941	700,700
Southern California Edison Co. debentures 7s, 1928	1,965,000
Total	$117,906,700

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In addition, the company reports that it has deposited with the trustee under the Edison Electric Light Company of Los Angeles mortgages, $20,000 to redeem $20,000 of bonds issued by that company. The mortgages of the company have been released of record but the bonds have not been redeemed to date.

As of January 3, 1927, applicant in its Exhibit No. 3 reports short term notes of $11,750,000. The notes bear interest at rates varying from 4½ to 4¾ per cent per annum. The company intends to use proceeds obtained from the sale of bonds to pay $6,750,000 of the notes. The current indebtedness of the company, other than notes payable, as of November 30, 1926, is reported at $7,187,417.01. The current liabilities do not include consumers' advances for construction reported at $1,375,062.97.

As of November 30, 1926, applicant reports the cost of its properties at $241,824,480.15. Its Exhibit No. 6 shows that up to November 30, 1926, it expended $14,622,281.96 for the acquisition and construction of new properties, against which no securities have been issued. This expenditure has been financed through the issue of notes, through advances and deposits from consumers and through the investment of earnings of the company, such earnings being represented by accruals, reserves and surplus.

In its Exhibit No. 4 applicant estimates that during 1927 it will expend for new construction $42,881,000, such expenditure being for the following purposes:

Big Creek construction	$12,400,000 00
Vincent transmission line and connections	2,676,000 00
Construction of new Steam plant	4,280,000 00
220 kilovolt transmission line—Laguna-Bell substation to steam plant construction	1,175,000 00
Lighthipe substation	2,400,000 00
Additions to Laguna-Bell substation	900,000 00
Rights of way	3,000,000 00
Civil engineering department contingencies	50,000 00
Miscellaneous system betterments	16,000,000 00
Total	$42,881,000 00

We have not made a detailed examination of the company's 1927 estimated expenditures. In view of the expenditures actually incurred by the company up to November 30, 1926, and in further view of the fact that the company's budget (Exhibit No. 4) calls for an expenditure substantially in excess of the amount that it will receive from the sale of the bonds herein authorized to be issued, we do not believe that it is necessary for us to delay authorizing the issue of the bonds pending our further examination of the company's 1927 estimated construction expenditures. It is, of course, understood that by authorizing the issue of the bonds and the use of some of the proceeds for the

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purpose of financing 1927 expenditures, that the Commission is not estopped from questioning items appearing in said budget.

The company asks permission to use the proceeds obtained from the sale of the bonds to pay $991,000 face value of 7 per cent gold debentures due January 15, 1927, to pay $6,750,000 of short-term notes and to reimburse its treasury on account of earnings expended for additions and betterments, and for the construction, completion, extension and improvement of its facilities.

In view of the fact that the company has used for construction purposes moneys obtained from consumers on account of deposits, and for advances for construction, we believe that the amount which may be used by it for the reimbursement of its treasury should be reduced by the amount received from consumers.

ORDER.

Southern California Edison Company, having applied to the Railroad Commission for permission to issue and sell $15,000,000 face value of its refunding mortgage gold bonds, series of fives, due 1951, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expense or to income, and that this application should be granted, as herein provided, therefore,

It is hereby ordered, as follows:

1. Southern California Edison Company may issue and sell on or before April 1, 1927, at not less than 95 per cent of their face value and accrued interest, $15,000,000 of its refunding mortgage gold bonds, series of fives, due 1951.

2. The proceeds, other than the accrued interest, obtained from the sale of such bonds shall be used by applicant for the following purposes:

a. To pay seven per cent debentures due January 15, 1927 ---------- $991,000 00

b. To pay the following short term notes:

To whom payable	*Issued*	*Due*	*Amount*	
National City Bank, N. Y.-----	12/14/26	2/ 1/27	$250,000 00	
New York Trust Company-----	12/14/26	2/ 1/27	250,000 00	
Bankers Trust Co., N. Y.-----	8/12/26	2/12/27	500,000 00	
Illinois Merchants Trust-----	8/12/26	2/12/27	500,000 00	
Harris Trust & Sav. Bk. Chgo--	9/14/26	3/14/27	500,000 00	
Harris Trust & Sav. Bk., Chgo.	9/24/26	2/24/27	500,000 00	
Bankers Trust Co., N. Y.-----	9/27/26	3/27/27	500,000 00	
Bankers Trust Co., N. Y.-----	10/15/26	2/15/27	500,000 00	
General Electric Co.----------	10/20/26	2/ 1/27	500,000 00	
General Electric Co.----------	10/25/26	2/ 1/27	500,000 00	
Bankers Trust Co., N. Y.-----	11/ 1/26	2/ 1/27	500,000 00	
New York Trust Co.----------	11/15/26	2/ 1/27	250,000 00	
National City Bk., N. Y.-----	11/15/26	2/ 1/27	250,000 00	
General Electric Co.----------	12/30/26	2/ 1/27	1,250,000 00	
				$6,750,000 00

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c. To reimburse company's treasury or pay the cost of the construction, completion, extension and improvement of its facilities described in Exhibit No. 8 filed in Application No. 11802 and in Exhibit No. 4 and Exhibit No. 8 filed in this proceeding	$4,808,875 00
d. To pay indebtedness or the cost of the construction, completion, extension and improvement of its facilities described in Exhibit No. 8 in Application No. 11802 and in Exhibit No. 4 and Exhibit No. 8 filed in this proceeding	$1,700,125 00

3. The accrued interest obtained from the sale of said $15,000,000 of refunding mortgage gold bonds may be used for general corporate purposes.

4. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $6,502.25.

5. Southern California Edison Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this seventh day of January, 1927.

DECISION No. 17857.

IN THE MATTER OF THE APPLICATION OF H. E. HOLMES AND H. P. HOLMES, COPARTNERS, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A FREIGHT TRUCK SERVICE BETWEEN SAN FRANCISCO, ROBERTSVILLE, SAN JOSE, LOS GATOS AND INTERMEDIATE POINTS UNDER THE NAME OF HOLMES EXPRESS.

Application No. 12354.

Decided January 10, 1927.

CERTIFICATE—AUTO TRUCKS—COMMON CARRIER.—Applicants, who have operated as private carriers, having applied for a certificate as a common carrier of freight, the application is granted.

Thelen and Marrin, for Applicants.
W. H. Robinson and *Chas. A. Beck*, for Pioneer-Gibson Express and H. O. Crymble, Protestants.
Gwyn H. Baker, for Highway Transport Company, Protestant.
E. G. Shoup, for Peninsular Railway Company, Protestant.
H. W. Hobbs, for Southern Pacific Company, Protestant.
T. A. Pierce, for Western Pacific Railroad Co., Protestant.

BY THE COMMISSION.

OPINION.

In this proceeding H. E. Holmes and H. P. Holmes, copartners, seek a certificate of public convenience and necessity authorizing them

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to operate, under the name of Holmes Express, an automobile truck service for the transportation of freight as a common carrier between San Francisco, Robertsville, San Jose, Los Gatos and intermediate points. Applicants allege that they have heretofore been engaged in transporting freight as private carriers and by filing this application do not dedicate their property to public use, but reserve the right to continue as private carriers until permitted by the Commission to enter the field as common carriers. The proposed rates, time schedules, and a description of applicants' equipment accompany the application.

Public hearings were held before Examiner Austin at San Francisco and San Jose, when evidence was offered, the matter submitted, and it is now ready for decision.

The applicants, Henry E. Holmes and Henry Perry Holmes, are copartners, doing business under the name of H. E. and P. W. Holmes, having succeeded the firm formerly composed of Henry E. and Philbrook W. Holmes, the present partnership retaining the former name for business reasons, and proposing also to operate under the name of Holmes Express. At San Francisco applicants own and maintain a terminal station located at 234 Seventh street, consisting of a brick building, where are situated loading platforms, scales, machinery for repairing equipment and a truck body building plant, their investment in these facilities aggregating approximately $72,000. The equipment to be used consists of five trucks and one trailer, worth approximately $17,000, and having a total rated capacity of 14½ tons, all of which is in good condition. This will be used for both pickup and line-haul service. Applicants have facilities for repairing equipment and have sufficient means to purchase additional trucks when needed.

Freight originating at San Francisco will be picked up in the afternoon and taken to applicants' terminal, where it will be unloaded from the pickup trucks and reloaded into the line-haul trucks in such a manner as to facilitate its ready distribution. The truck carrying freight destined to San Jose itself will leave San Francisco at 4.30 a.m. and trucks carrying freight destined to intermediate points will leave at 6 a.m., the freight being delivered early in the morning without any transfer or distribution at the point of destination. This is the present practice which applicants propose to continue. Freight of all descriptions will be handled excepting furniture, certain valuable articles and fresh fruit, vegetables, produce and high explosives. At present applicants specialize in the transportation of groceries, grocers' sundries, druggists' sundries, wholesale drugs and paper. The present rates, which applicants propose to continue, are: Upon southbound shipments, 32½ cents per 100 pounds, minimum 33 cents, and minimum weight, 100 pounds, applicable upon all commodities and between all points; and northbound, 17½ cents per 100 pounds upon shipments

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weighing 2000 pounds or more, delivered to carrier at the curb. In addition, certain charges are imposed for pickup or delivery service beyond the free delivery limits specified in the tariff. It will thus be seen that in both directions blanket rates are applicable. H. E. Holmes testified that applicants had earned a substantial profit under these rates during 1925, and expected them to yield a profit should applicants be permitted to operate as a common carrier. The present partnership and its predecessor have been engaged in a transportation service between these points, ostensibly as private carrier, since February, 1923, having entered into leases or contracts with all shippers, which provided rates similar to those now proposed to be imposed.

Applicants called twenty-nine witnesses from San Francisco, San Jose and other points proposed to be served, of whom five were wholesale druggists, four were wholesale paper dealers, six were retail druggists, and the rest included representatives of various wholesale and retail businesses. In addition to the witnesses called, the testimony of a druggist at San Jose was included in the record by stipulation, and another druggist, called by protestants, endorsed the applicants' service. All of these witnesses testified that applicants' service was satisfactory, and some stated that it was superior to that of protestants, Highway Transport Company, and Pioneer-Gibson Express, in that applicants provided a more convenient pickup service, their delivery service was expeditious, dependable and convenient, and that fewer delays were encountered. In a few instances it was asserted that shipments moving over protestants' lines had been damaged. One witness stated that applicants' packing requirements were less exacting, and another testified that their uniform rate simplified billing operations. Still others objected to the delay which they said was encountered in the transfer of shipments by the Highway Transport Company and Pioneer-Gibson Express at San Jose, where the latter companies maintained terminal depots, these witnesses preferring the direct delivery made by applicants. Some of the witnesses favored the applicants because they believed that competition between carriers was essential and desirable to the development of the best service. Many of them testified that they were interested primarily in dependable service and stated that if applicants should transfer any certificate granted in this proceeding they would continue to use the line, notwithstanding this fact, so long as the present high standard of service was maintained; however, a few stated they favored Mr. Holmes because of personal reasons. It might be stated here that Mr. Holmes testified that he had no present intention of transferring any certificate that might be granted.

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Some of these witnesses, more particularly those engaged in handling drugs, testified that the lower rates offered by applicants were a material inducement to the utilization of this service.

Applicants submitted a statement containing a list of the names of the shippers, 108 in number, for whom they had been hauling under private contracts or leases, together with the tonnage handled during October, 1925, amounting altogether to 553,053 pounds, or 281½ tons. It was stated that this month was selected as typical and fairly representative of the volume of shipments transported. The total tonnage handled by applicants during 1925 was 5,930,509 pounds, or 2965.25 tons, an average of 8.12 tons per day, including Sundays and holidays.

Considerable testimony was offered relative to the character of applicants' present and past operations, which we shall discuss later.

The granting of this application was protested by Highway Transport Company, Pioneer-Gibson Express, H. O. Crymble, Peninsular Railway Company, Southern Pacific Company and Western Pacific Railroad Company.

Protestant Highway Transport Company is now engaged in operating a freight truck service between San Francisco and San Jose and intermediate points, the line having been acquired by the present management about two years ago when it was reorganized and its service improved. From San Francisco to San Jose it operates two schedules, both leaving at night and handling freight accumulated during the preceding day, and another leaving at noon, handling the freight picked up that morning. In addition, local service is maintained to the intermediate points. From San Jose northbound trucks leave in the early morning, at noon and in the afternoon, serving intermediate points as well. Freight is picked up by a fleet of light trucks maintained for this purpose, is carried to protestant's depot at 559 Sixth street, San Francisco, and there billed and loaded upon the line trucks, being routed wherever possible in accordance with the destination of shipments so as to facilitate their delivery. The pickup service is conducted upon a regular schedule, the trucks calling twice daily upon regular customers and answering telephone calls for special service. A depot is maintained at 552 South First street, San Jose, where some of the freight originating in San Francisco is redistributed to delivery trucks, but the majority is handled in the line trucks, the same having been properly routed when originally loaded in San Francisco. It was stated that, as a rule, deliveries were completed by 11 a.m. The available equipment of this protestant consists of 49 trucks and 35 trailers, the investment in which amounts approximately to $100,000. In addition it conducts a body building plant and machine

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shop at San Jose, where equipment can be constructed and repaired. Its investment in shop equipment amounts approximately to $50,000. The average daily tonnage handled by this protestant southbound from San Francisco amounts approximately to from 36 to 47 tons, the northbound tonnage being uncertain in amount, varying considerably from time to time. This protestant's president and general manager testified that the schedules had been established to meet the needs of its shippers, and he had received no complaints from shippers as to the service.

The protestant Pioneer-Gibson Express since 1918 has been operating a freight truck service between San Francisco, San Jose and intermediate points, the trucks leaving San Francisco for San Jose at 12.30 p.m. and during the night, separate schedules leaving in the afternoon and during the night serving intermediate points, while from San Jose north the schedules leave in the morning and during the middle of the day. Protestant maintains a depot on Folsom street near Fifth street in San Francisco, to which freight is brought by a fleet of pickup trucks, where it is segregated and loaded upon the line trucks. At San Jose a terminal station is maintained where most of the freight is redistributed to smaller delivery trucks, a few heavy shipments being delivered direct from the road trucks. In addition the delivery trucks handle the local pickups in San Jose. Stations are maintained at San Mateo, Redwood and Palo Alto, where agents are located and where pickup and delivery trucks are maintained for handling local pickups and deliveries. This protestant's equipment comprises 23 trucks and 4 trailers, 8 of which are road trucks. In addition, it maintains a shop for repairing equipment. Protestant's total investment in equipment, buildings and tools amounts approximately to $90,000, and it appears to be financially able to increase its facilities whenever necessary. The tonnage handled southbound amounts approximately to from 35 to 40 tons daily, but the record does not show the average tonnage handled northbound from San Jose other than the general statement that it is a fair amount. As the total capacity of the main line trucks is approximately 57 tons, protestant has empty truck space available daily of about 17 tons which can be utilized for hauling additional tonnage without any appreciable increase in operating costs. It is doubtful, however, whether the conditions under which the service is maintained will permit each unit to be loaded to its maximum capacity. Protestant's manager testified that there is need for a morning and afternoon pickup delivery service in San Jose and that he has found that delivery of freight upon the day of shipment has been quite advantageous to the shippers. In addition, he stated that experience has shown that local deliveries at San Jose can be handled more promptly with separate pickup and delivery

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trucks than by using the main-line equipment, most merchants desiring early delivery of their shipments, which can best be accomplished by dividing the freight among several smaller trucks. He also testified that protestant's line could readily handle all of applicant's shipments and, in fact, did so for a short time during January, 1926, when applicants temporarily ceased their operations. He stated that his line had handled drugs in large quantities, but had been unable to keep the business because of the lower rates quoted by applicants, the rates upon this commodity being a material factor in determining its routing.

Protestants called twenty-two witnesses, most of whom were engaged in wholesale or retail business in San Francisco and San Jose, and some conducted stores at intermediate points. These witnesses for the most part represented substantial firms, some of them being quite large business institutions. With the exception of one witness, who endorsed the applicant's service, all of these witnesses testified that they have used either the Highway or Pioneer lines or both, and have found the service satisfactory, some of them stating that the delivery of freight upon the day of shipment was advantageous, particularly in the case of emergency shipments. All testified that no additional freight transportation service was necessary to meet their respective business requirements. A representative of the Owl Drug Company stated that his firm used the Pioneer-Gibson Express upon all shipments destined to their branch store at San Jose, but that shipments moving to their agencies at intermediate points were handled by applicants, both services being satisfactory.

Protestant Southern Pacific Company maintains a local freight service between San Francisco and San Jose and Los Angeles respectively, and also between San Jose and Los Gatos, this service being described in detail. According to a statement introduced in evidence it handled during October, 1925, a total tonnage of 5,541,220 pounds from San Francisco to Coast division points north of San Francisco to and including San Jose and Los Gatos.

No testimony was offered by the other protestants.

Protestants assert that since applicants' past operations have been illegal, they should be denied a certificate. On the one hand, applicants contend they are private carriers, while protestants claim, on the other hand, that applicatnts are in reality common carriers, operating regularly between fixed termini. Applicants' operations have been conducted, so Mr. Holmes testified, upon advice of counsel that their actions were lawful. Since 1923 applicants and their predecessors have transported freight between San Francisco and points in San Mateo and Santa Clara counties, a special lease or contract with each shipper regulating the terms of carriage. Applicants have reserved

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and exercised the right of selection in respect to the shippers served, but, generally speaking, they appear willing to enter into a contract or lease with any firm handling the class of business which they desire to handle. Their rights have been the subject of considerable litigation, the controversy having been carried to the United States Supreme Court where it is now pending. It is well known that for some years past there has been considerable difference of opinion as to the Commission's power to regulate private carriers, the United States Supreme Court having recently ruled that such power did not exist (*Frost & Frost* vs. *Railroad Commission*, ------ U. S. ------; 70 Law Ed. 682).

In determining the public convenience and necessity for the proposed service we must consider the requirements of the shippers and the ability of the existing carriers to meet those needs. The applicants called many substantial shippers, all of whom were satisfied with their service, and many of whom stated it was superior to that of the existing lines. Although some were induced to patronize the applicants because of lower rates, most of them have used the lines because of the excellent service, and in addition the record discloses that upon many commodities applicants' rates were about the same as or higher than those of protestants. Many of those witnesses stated that they were interested primarily in the transportation service itself rather than in the applicants personally, and would continue to use the line should equal or better service be given by a future owner. Were this merely a matter of rate competition, we would be disposed to give scant consideration to the present application for, all other things being equal, lower rates in and of themselves are not sufficient to warrant the establishment of a competitive service, the proper remedy being the filing of a complaint against the rates of existing lines rather than the introduction of another truck service. But applicants have shown that the service of the existing carriers does not fully meet the needs of the shippers. While it is true that these existing carriers have been handling a substantial tonnage and appear to have adequate equipment and facilities, it nevertheless has been shown that a substantial number of responsible shippers, many of them quite large business institutions, have found the service inadequate for their own purposes and have ceased using it. This, in itself, is an indication of public necessity for an additional service.

The territory proposed to be served is of high traffic density and should be afforded every facility for dependable public transportation in order to insure its development. We believe that the applicants have shown sufficient justification for their proposed service, consequently the application will be granted.

Upon full consideration of the evidence, we are of the opinion and hereby find as a fact, that public convenience and necessity require

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the operation of H. E. Holmes H. P. Holmes, as copartners doing business under the firm name and style of Holmes Express, of an automotive truck for the transportation of freight as common carriers between San Francisco, Robertsville, San Jose, Los Gatos and the intermediate points of South San Francisco, Daly City, Colma, Holy Cross, Badam, San Bruno, Lomita Park, Millbrae, Broadway, Burlingame, San Mateo, Beresford, Belmont, Bel Monti Country Club, San Carlos, Redwood City, Atherton, Menlo Park, Stanford University, Palo Alto, Los Altos, Mayfield, Mountain View, Sunnyvale, Cupertino, Santa Clara, Meridian and Saratoga.

An order will be entered accordingly.

ORDER.

A public hearing having been held in the above-entitled application, the matter having been duly submitted, the Commission being now fully advised, and basing its order on the finding of fact appearing in the opinion which precedes this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by H. E. Holmes and H. P. Holmes, as copartners doing business under the firm name and style of Holmes Express, of an automotive truck service for the transportation of freight as common carriers between San Francisco, Robertsville, San Jose, Los Gatos, and intermediate points of South San Francisco, Daly City, Colma, Holy Cross, Baden, San Bruno, Lomita Park, Millbrae, Broadway, Burlingame, San Mateo, Beresford, Belmont, Bel Monti County Club, San Carlos, Redwood City, Atherton, Menlo Park, Stanford University, Palo Alto, Los Altos, Mayfield, Mountain View, Sunnyvale, Cupertino, Santa Clara, Meridian and Saratoga; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted to said H. E. Holmes and H. P. Holmes, as copartners as aforesaid, for the operation of the service herein authorized, subject to the conditions hereinafter set forth.

1. Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

2. Applicants shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof.

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3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this tenth day of January, 1927.

DECISION No. 17858.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION APPROVING A CERTAIN AGREEMENT ENTERED INTO BY AND BETWEEN APPLICANT AND THE DUMBARTON BRIDGE COMPANY, A CORPORATION, DATED DECEMBER 5, 1926.

Application No. 13408.

Decided January 11, 1927.

RATES—ELECTRIC UTILITY—CONTRACT.—Contract for delivery of power for a period of three years, at 2300 volts approved.

BY THE COMMISSION.

OPINION.

This is an application of Pacific Gas and Electric Company for an order approving a certain contract, dated December 5, 1926, entered into with the Dumbarton Bridge Company. A copy of this contract, marked Exhibit "A," is attached to the petition in this matter. The consumer will use electricity for lighting and power purposes in connection with the operation of the Dumbarton Bridge, situate in San Mateo County.

The contract provides for delivery of electric energy at 2300 volts. The consumer must provide all necessary equipment beyond the metering point. Special rates are provided in the contract, which is for a period of three years, and thereafter until termination by thirty days written notice by either party.

The contract is at all times subject to such changes and modifications as the Railroad Commission of the State of California may direct.

In view of the nature of this service, to which filed schedules do not apply, the terms of the contract appear to be reasonable.

ORDER.

Pacific Gas and Electric Company having applied to the Commission for an order approving a certain agreement entered into between

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applicant and Dumbarton Bridge Company, dated December 5, 1926, the Commission having considered the matter and being of the opinion that a public hearing is not necessary;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to execute an agreement substantially in the same form as the agreement filed in this proceeding and marked Exhibit "A."

It is hereby further ordered, that the authority herein granted shall be effective from and after the date hereof.

Dated at San Francisco, California, this eleventh day of January, 1927.

DECISION No. 17866.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS OF PROPOSED STANDARDS FOR PROTECTION OF CROSSINGS OF HIGHWAYS WITH RAILROADS AND STREET RAILROADS.

Case No. 2292.

Decided January 12, 1927.

COMMISSION'S INVESTIGATION—GRADE CROSSINGS—PROTECTION OF CROSSINGS.—**General Order No. 75, providing standards for protection of grade crossings of highways with railroads and steam railroads issued. Order is effective for all new installations, February 1, 1927, and becomes retroactive on existing installations, July 1, 1929.**

Fred E. Pettit, Jr., for Los Angeles and Salt Lake Railroad Co.
James S. Moore, Jr., for The Western Pacific Railroad Company, Tidewater Southern Railway Company, and Sacramento Northern Railway Co.
E. T. Lucey and *W. W. Kelly*, for The Atchison, Topeka and Santa Fe Railway Company.
E. J. Foulds and *H. W. Hubbs*, for Southern Pacific Company, Stockton Electric Railroad Co., Visalia Electric Railroad Co., Peninsular Railway Co., Fresno Traction Company, San Jose Railroad Co., and Holton Interurban Railroad Co.
H. A. Mitchell, for San Francisco-Sacramento Railroad Co.
H. G. Weeks, for the Los Angeles Railway Corporation.
Frank Karr, for Pacific Electric Railway Company.
E. H. Hicks, for Northwestern Pacific Railroad Company.
S. Mitchell, for the State Highway Commission.
John R. Berryman, Jr., for Automobile Club of Southern California.
Archer Bowden, City Attorney, for City of San Jose.
J. Ogden Marsh, for Board of Public Utilities, City of Los Angeles.
C. M. Hemphill, for the City of Oakland.
Ivores R. Dains, for Market Street Railway Co.
C. E. Brown, for San Francisco, Napa and Calistoga Railway Co.
Frank Rae, for City of Berkeley.
George D. Sandford, for California State Automobile Association.
Platt Kent, for The Atchison, Topeka and Santa Fe Railway Company.
A. H. McKean and *L. T. Jackson*, for Los Angeles and Salt Lake Railroad Company.

WHITSELL AND LOUTTIT, *Commissioners.*

OPINION.

This is an investigation instituted on the Commission's own motion into the reasonableness of proposed standards for the protection of

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crossings at grade of public roads, highways and streets with railroads and street railroads in the State of California, necessary to reasonably safeguard the health and safety of the employees, passengers and customers of common carriers and of the public.

Public hearings were held in San Francisco on December 3, and December 21, 1926.

The Commission called a general conference in 1925 for the purpose of considering, in a preliminary manner, the matter of standardization of warning aspects of protective devices at grade crossings. The Commission's engineers made certain definite suggestions and the representatives of the carriers requested that certain other features be studied. Further studies were made by the carriers and the results of those studies were presented informally to the Commission. Also since that time the Commission's engineering department has further studied the matter and prepared a draft of a proposed general order on this subject, which was introduced in evidence at the hearing on December 3d, and identified in this proceeding as Commission's Exhibit No. 1

During the course of the hearing on that date it was suggested that the formal proceedings might be shortened by having a committee representing the carriers go into an informal conference with representatives of the other interested parties and the Commission's engineers, both as to principles and as to details involved in Commission's Exhibit No. 1. Such a conference was accordingly arranged.

At the adjourned hearing on December 21, 1926, Commission's Exhibit No. 2 was presented, which embodied all the provisions on which the conference was able to agree. It developed that the conference was unable to agree on the color designs of the wigwag banner shown on Standard No. 3 and Standard No. 4 in section 6 of Commission's Exhibit No. 1. The red banner proposed in Commission's Exhibit No. 1 is satisfactory to and approved by the Commission's engineers and all of the railroads participating in the conference with the exception of the Los Angeles and Salt Lake Railroad Company and The Atchison, Topeka and Santa Fe Railway Company.

The entire matter, therefore, has been reduced to one issue, namely, whether the standard banner for wigwags shall be painted red, as is now the case with the majority of the wigwag installations, or shall be painted black and white, as proposed by the signal section of the American Railway Association and urged by the Salt Lake and Santa Fe companies.

In discussing this issue, it appears appropriate to consider the merits of the two color schemes proposed, first in relation to their visibility and arrestiveness, second in relation to the use of red as a danger or stop color for highways, third in relation to existing highway grade

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crossing approach signs and forth in relation to uniformity in this state and throughout the United States.

The testimony shows that the relative visibility of the two proposed markings is approximately equal, while the arrestiveness of the red banner appears to be greater than that of the black and white against the backgrounds usually encountered at grade crossings.

Considerable evidence was adduced as to the propriety of the use of a red banner on a two-position wigwag in view of the proposal to restrict the use of a red color along highways to points of danger. It appears that on the one hand a red banner of a two-position wigwag suspended stationary at a crossing when no train is approaching would give an undesired danger warning, while on the other hand a black and white banner swinging to indicate the approach of a train during the daytime would, under this theory, give no danger indication whatsoever. It appears that while the red banner may not be theoretically in accordance with the rule to limit the use of red to points of actual danger where highway traffic should stop, it is, in this regard, the most desirable of the two proposals.

The American Railway Association standard, according to testimony, is the same as that used on the highway advance signs generally used throughout the United States as a distant or advance warning to highway traffic of the approach to a grade crossing. This sign, the record shows, has for some years been in general use as a cautionary sign but not as a stop sign. The use of such a sign as an advance or distant warning for railroad crossings is required by law in this state. It appears that the use of this symbol as a stop sign, therefore, might lead to a certain amount of confusion.

The record shows that a large majority of the wig-wags now installed, not only in California but throughout the United States, have the banner painted red, this color having been developed through the experimental stages of the wigwag to a point where for all practical purposes it has become the standard or most usual form of indication to the highway user. It appears that during the past few years a committee of the Signal Section of the American Railway Association proposed the use of the black and white banner, and that this type has been adopted by some of the western railroads as their standard for future installation, in which are included the Salt Lake and Santa Fe railroads, two carriers having lines in California. The customary color for wigwag banners on all of the remaining lines in California, including the Southern Pacific and Pacific Electric, is red. It appears that there are between 2000 and 2500 wigwags now installed in this state and it is estimated that these constitute a very considerable portion of the total number in the United States. The

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entire purpose of the wigwag signal when installed is to apprise the users of the highways of the existence of danger at grade crossings. It is primarily a highway signal and not a railroad signal. Its aspect should, therefore, be such as to attract a maximum of attention from the vehicle operator.

It appears that for all practical purposes the traveling public, particularly in this state and generally throughout the United States, recognize the swinging red banner and red light as the indication announcing the approach of a train at a railroad grade crossing. Before changing this color there should be a certainty that the substitutional color or design is so materially better than that now existing that the confusion to the traveling public during the years in which such a change of aspect must necessarily take to become completely effective, is warranted. It is concluded from a consideration of all of the evidence in this proceeding that the American Railway Association standard is not superior to the proposed standard and that the change in the color of the banner is not justified.

We are of the opinion that the safety of the public demands carrying into effect the requirements substantially as shown on Commission's Exhibit No. 1 and as amended by Commission's Exhibit No. 2.

The following form of order is therefore recommended:

ORDER.

An investigation having been instituted on the Commission's own motion into the reasonableness of the proposed standards for the protection of crossings at grade of public roads, highways and streets with railroads and street railroads, and the matter being under submission and ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that the proposed rules and regulations establishing standards for protection of crossings of public roads, highways and streets with railroads and street railroads as prescribed in this Commission's General Order No. 75, are reasonable, just and necessary for the public health and safety. Basing its order on the above findings of fact;

It is hereby ordered, that all construction, reconstruction and operation of protection of railroad and street railroad crossings with public roads, highways and streets coming within the jurisdiction of this Commission on and after February 1, 1927, shall conform to regulations governing the protection of crossings at grade of railroads and street railroads with public roads, highways and streets in the State of California prescribed by the Railroad Commission of the State of California in its General Order No. 75.

The effective date of this order shall be February 1, 1927.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of January, 1927.

GENERAL ORDER
No. 75.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

REGULATIONS GOVERNING THE PROTECTION OF CROSSINGS AT GRADE OF ROADS, HIGHWAYS AND STREETS WITH RAILROADS OR STREET RAILROADS IN THE STATE OF CALIFORNIA.

Issued under authority of Public Utilities Act.

Approved January 12, 1927. Effective February 1, 1927.

IT IS HEREBY ORDERED by the Railroad Commission of the State of California, that the following regulations governing the protection of street, road and highway crossing with railroads and portions of street railroads be observed in this State unless otherwise authorized or directed by the Commission.

I. Purpose of Rules.

The purpose of these rules is to formulate, for the State of California, uniform standards for grade crossing protection, the application of which will insure greater safety to the public using grade crossings.

II. Scope of Rules.

These rules are not intended as complete construction specifications but embody only the requirements which are most important from the standpoint of public safety. Construction shall be according to accepted good practice for the given local conditions in all particulars not specified in the rules.

III. Identification of Public Crossings.

Carriers shall paint or otherwise maintain on the crossing sign post or other structure at each public crossing of its tracks, an identification number preceded by the words "Crossing No."; provided that this Commission shall have assigned such identification number and shall have notified the carrier thereof. Such number shall be placed so as to be readily legible from the highway. In all matters pertaining to any crossing brought to the attention of the Commission, reference shall be given to the identification number.

IV. Identification of Private Crossings.

Each private road crossing at grade with a track of a railroad or street railroad shall have a distinctly legible sign installed in a conspicuous location, indicating that the crossing is for private use only and not for public use. Such sign need not be installed where the railroad right-of-way is fenced on both sides and fence gates are maintained and kept closed.

V. Crossing Signs.

(a) Each public crossing at grade of a road, highway or street with a track of a railroad or of a street railroad shall be protected by at least one crossing sign, constructed and installed in substantial conformity with the specifications hereinafter illustrated and designated as Standard No. 1.

(b) Each crossing sign (Standard No. 1) shall be located in a conspicuous position facing highway travel, preferably at either corner of the crossing intersection on the right-hand side of the highway traffic flow and in advance of the railroad track.

(c) A suspended "X" sign, constructed and installed in substantial conformity with specifications above illustrated and designated as Standard No. 2, may be used at a crossing in addition to the crossing sign designated as Standard No. 1, or in cases approved by this Commission, may be installed in lieu thereof. Said suspended sign shall be placed in a conspicuous location facing highway traffic, and shall preferably be illuminated during night hours.

(d) Special crossing signs for unusual conditions shall be approved by this Commission before the installation thereof.

VI. Wigwags.

(a) All wigwags installed at a public crossing at grade of a street, road or highway with the track of a railroad or street railroad, shall substantially conform to the specifications hereinafter illustrated and designated as Standard No. 3 or Standard No. 4.

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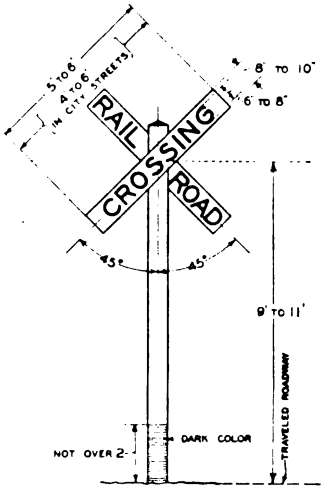
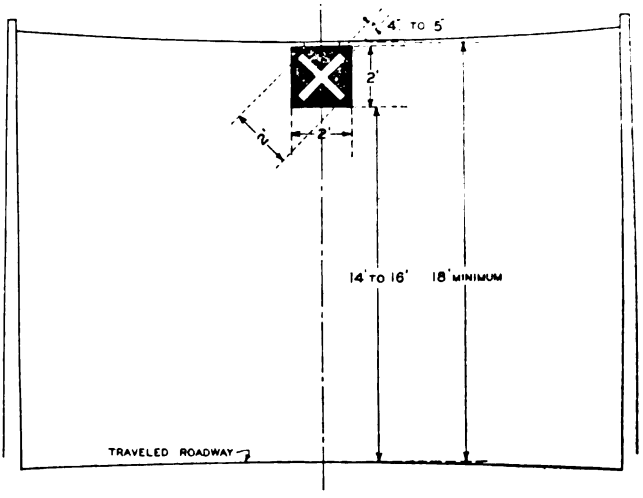


STANDARD No. 1.

PAINTING:

Post and Arms: White, except that post may be of a dark color for not over two (2) feet above ground line.

Lettering: Black—width of stroke 1" to 1⅜".



STANDARD No. 2.

PAINTING:

Field: Black.
Letter: White.

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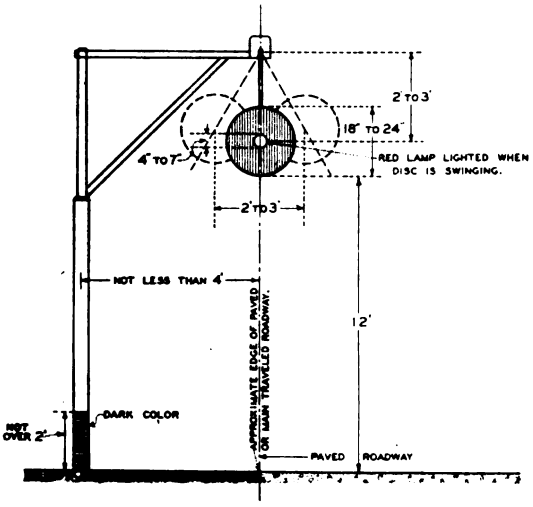


STANDARD No. 3.

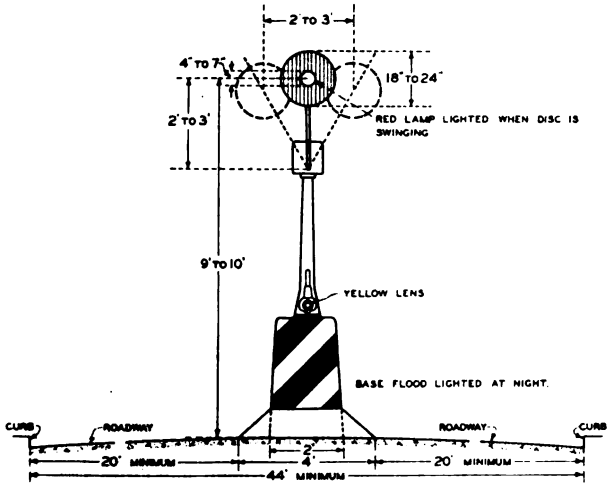
PAINTING:

Post: White, except that not over 2' above ground line may be of a dark color. Instrument cases placed at the bases of posts supporting wigwags where liable to be struck by highway traffic shall be painted white. At other locations, such instrument cases may be painted a dark color.

Banner: Vermillion.

Note: The distance from the surface of the paved roadway to the lower edge of the banner shall be 12', except that this distance may, where justified by special conditions, be from 11' to 14'.

In a curbed street, the supporting post shall be placed at curb line.



STANDARD No. 4.

PAINTING:

Above base: White.
Base: Diagonal black and white stripes.
Banner: Vermilion.

Note: Base shall be illuminated by flood lighting during night hours.

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(b) The "warning aspect" of a wigwag is defined as a swinging red disc by day, in combination with a swinging red light by night. Unless omitted by special permission of the Commission, the warning aspect shall be accompanied by the sounding of a bell.

(c) A distinctive warning aspect may be used at crossings having more than one main track, to indicate the approach of another train, when the warning aspect defined in sub-section (b) hereof is being displayed for the first train, provided, however, that the type of such distinctive warning aspect shall have been approved by this Commission.

(d) Wigwags shall be located in a conspicuous position facing highway travel, preferably at either or both of the corners of the crossing intersection on the right-hand side of highway traffic flow and in advance of the railroad track.

(e) Wigwags, automatically controlled, shall be installed so as to display the warning aspect from 20 to 30 seconds in advance of the normally fastest train operated over the crossing protected, except where special conditions prevail. Where both high and low speed tracks are included in the crossing, the normally fastest train operated over each individual track shall govern the length of ringing circuit on that track. Nothing herein shall be construed as requiring tracks other than main tracks to be connected with wigwag ringing circuits.

(f) Wigwags, manually controlled, shall be operated so as to display the warning aspect for a period approximately twenty-five (25) seconds in advance of the movement of the train over the crossing.

(g) Wigwags shall be controlled so that the warning aspect shall not be displayed after the movement of the train over the crossing has been completed.

(h) Wigwags shall be installed in so far as practicable so that failure of control circuits or other apparatus will result in a warning aspect being displayed.

VII. Installation of Additional Protection.

This Commission shall be notified within thirty (30) days following the installation of additional protection at any public crossing at grade of a street, road or highway with the tracks of a railroad or street railroad, provided, however, that the Commission need not be notified of the temporary installation of a human flagman to protect a crossing during an emergency.

VIII. Removal, Reduction or Substitution of Protection.

No railroad or street railroad shall hereafter remove a wigwag or other crossing signaling device, crossing gates, crossing switchman or other form of crossing protection, or reduce the hours during which any such protection is maintained or substitute any form of crossing protection for a form already maintained at any public crossing at grade of a street, road or highway with its track, unless the consent for such removal, reduction or substitution shall have been secured from this Commission; provided, however, that a human flagman, installed to temporarily protect a crossing during an emergency, may be removed without such consent. Notice of any change in protection made under authority of such consent shall be given the Commission within thirty (30) days after the change is actually effected.

IX. Order Retroactive—Time Limit for Changes.

(a) The provisions of Section V and VI of this order shall not apply to installations made prior to the effective date hereof, until on and after July 1, 1929, except in such particular instances as may be ordered by this Commission.

(b) Remaining sections shall be effective on date hereof.

X. Replacement of Crossing Protection Following Accident.

Absence of crossing signs and automatic flagmen, due to accidents, shall not be considered a violation of this order until after a reasonable time for replacement has elapsed.

XI. Applies to Railroads and Portions of Street Railroads.

This general order applies to all railroads and to those portions of street railroads located on private rights-of-way, excluding, however, those portions where such private rights-of-way lie longitudinally between the two parts of a divided street or highway.

XII. Exemptions.

If, in a particular case, exemption from any of the requirements herein is desired, the Commission will consider the application of a carrier for such exemption when accompanied by a full statement of the conditions existing and the reasons why such exemption is asked. It is to be understood that any exemption so granted shall be limited to the particular case covered by the application.

Nothing herein shall be construed as limiting the trial installation of experimental grade crossing protective devices, provided, however, that the Commission shall be promptly notified of such installation.

The Commission reserves the right to modify any of the provisions of these rules in specific cases, when, in the Commission's opinion, public interest would be served by so doing.

Compliance with these rules shall not relieve a utility from any statutory requirement.

This order shall be effective on and after the first day of February, 1927.

Approved and dated at San Francisco, California, this twelfth day of January, 1927.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

By H. G. MATHEWSON, *Secretary.*

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DECISION No. 17869.

IN THE MATTER OF THE APPLICATION OF PENNANT PARLOR COACH LINES, INC., FOR A PERMIT TO ISSUE AND SELL ITS SECURITIES.

Application No. 13368.

Decided January 12, 1927.

SECURITIES—STOCK—TO ISSUE.—Applicant authorized to issue $44,050 of preferred stock, and $44,050 of common stock, and to deliver $29,000 of the common stock to H. E. Kettering in payment for his properties, leases and facilities, and to sell at not less than par $50 of common stock to its incorporators. The application is denied so far as it relates to the balance of the stocks applied for.

Charles Gray, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding Pennant Parlor Coach Lines, Inc., asks permission to issue 19,005 shares of its capital stock, of the aggregate par value of $190,050, consisting of 7500 shares of 8 per cent cumulative preferred stock and 11,505 shares of common stock.

It appears that Pennant Parlor Coach Lines, Inc., was organized on or about October 14, 1926, under the laws of the State of California, primarily for the purpose of taking over and operating a transportation business now owned by H. E. Kettering and operated for the transportation of passengers between San Francisco and Seattle, interstate business only being conducted, except in the State of Oregon, where local passengers are carried. The company's articles of incorporation provide for a total capital stock of $250,000, divided into 25,000 shares of the par value of $10 each, and consisting of $100,000 of 8 per cent cumulative preferred stock, redeemable at any time at 105, and $150,000 of common stock. In making the present application the company asks permission to issue its stock for the following purposes:

1. To acquire assets, leases and facilities of H. E. Kettering—common stock		$100,000 00
2. To acquire additional equipment—preferred stock	$75,000 00	
Common stock	15,000 00	90,000 00
3. To incorporators—common stock		50 00
Total		$190,050 00

It is reported that H. E. Kettering commenced the operations referred to herein during May, 1926. The record shows that he has offered to transfer to the corporation the assets, leases and facilities used in connection with such operations in consideration for $100,000 of common stock of the corporation and the assumption by the corporation of indebtedness of $35,931.82. The properties proposed to be transferred include the following:

Certificate of public convenience and necessity granted April 14, 1926, by the Department of Public Works of the state of Washington.

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Certificate of public convenience and necessity granted October 6, 1926, by the Public Service Commission of the state of Oregon.

Lease of office at 1180-A Market street, San Francisco, running for five years from July 26, 1926.

Lease of garage and repair shop at 244 Ninth street, San Francisco, running for five years from October, 31, 1926.

Two Pierce-Arrow 23-passenger coaches.

Two Mack 23-passenger coaches.

No certificate of public convenience and necessity has been obtained from the Railroad Commission of the State of California, as it has heretofore been decided that this Commission is without the power to grant or deny authority for the exercise of interstate operating privileges. (See Decision No. 16408 and Decision No. 16431.)

Testimony offered at the hearing in this matter indicates that the Pierce-Arrow coaches cost new approximately $15,000 each, and the Mack coaches about $12,000 each. No evidence was submitted bearing on the value of the other properties, except a general statement in the petition that, based on estimated earnings, the good will and franchises would have a value of around $200,000. The application does show that on September 1, 1926, there was $35,931.82 owing by Mr. Kettering in connection with the acquisition of the properties and the business, and in addition, that Mr. Kettering had invested about $27,000 in cash. The sum of these two figures is $62,931.82. In support of the request to issue $100,000 of stock to Mr. Kettering, applicant sets forth in paragraph IX of its petition the following:

> Mr. Kettering has invested in cash something over twenty-seven thousand dollars ($27,000) in the business. He, of course, desires to retain control of the corporation and has offered to transfer all the physical assets and the leases and facilities used by him in connection with the operation of said line of parlor coaches, for ten thousand (10,000) shares of the common stock of your applicant. Your applicant desires to issue to Mr. Kettering twenty-seven hundred (2700) shares of its common stock out of escrow, to represent the cash actually put in the business by Mr. Kettering, and to issue the balance of said common stock, to wit, seventy-three hundred (7300) shares, in escrow to be held until all of the preferred stock has been retired and until the further order of the Railroad Commission.

At the hearing it was reported that the figure of $27,000 was in error and that H. E. Kettering has invested, instead, about $25,000. The balance sheet of H. E. Kettering as of November 30, 1926, shows an investment of $28,858.44.

We do not believe that we should authorize the issue of stock solely for the purpose of giving H. E. Kettering control of the affairs of the corporation and do not believe that the evidence herein justifies us in authorizing the issue of stock to Mr. Kettering in excess of $29,000, which represents approximately the amount he had invested on November 30, 1926. We have, of course, no objection to the issue of common stock in place of 8 per cent preferred stock, but we do not think we should authorize the issue of such common stock in advance of the

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retirement of the preferred stock. The order herein, therefore, will authorize applicant to issue $29,000 of common stock to Mr. Kettering in payment of his assets, leases and facilities, subject to the outstanding indebtedness of $35,931.82.

Coming to the request to issue and sell additional stock of the par value of $90,000, it appears that it is applicant's desire and intention to use the proceeds to be received to pay the indebtedness of $35,931.82 it will assume, and to finance the cost of two new coaches, of the same type as those now used, which it is thought will cost about $12,000 each. It is reported that at present thirteen round trips are made monthly between San Francisco and Seattle, using four coaches. To maintain this service it is said that it will be necessary to acquire a fifth coach and that during the summer a sixth coach must be added to take care of excursion business and heavy summer traffic. It is estimated that monthly revenues from ticket sales will amount to about $9,400, and monthly expenses to $5,348, leaving a monthly profit available for dividends of about $4,052, or annually about $48,624. In view of the fact that H. E. Kettering sustained a loss of $3,182.58 to November 30, 1926, and that he figures a fifteen-year life for his stage equipment, we are not convinced that the corporation can operate at a monthly profit of $4,052.

Applicant proposes to sell the $90,000 of stock in units of five shares of preferred and one share of common, of a total par value of $60, at a price of $50 a unit. It further proposes to use 20 per cent of the proceeds to pay selling commissions, so that for the $60 par value of stock it will receive in cash $40. The total proposed issue of $90,000 thus will yield it $60,000 in cash to apply on the indebtedness of $35,931.82 and to finance the cost of the two new coaches. This is equivalent to the issue of the stock at 66.67 per cent of par value. We will not authorize the issue of the stock under these conditions. The order herein will authorize the issue of stock at not less than par, and will provide that not exceeding 10 per cent of the proceeds received may be used to pay commissions and selling expenses. However, we notice that applicant's articles of incorporation provide that there shall not be outstanding at any time more shares of preferred stock than of common stock. The order herein authorizes the issue of $29,000 of common stock to Mr. Kettering; $15,000 of common stock, the additional amount requested, to be sold for cash; and $50 of common stock to the corporation's incorporators. Necessarily, then, it seems to us, the authority to issue preferred stock should be limited to permitting the issue of a like amount of preferred stock and the order herein, therefore, will authorize the issue of $44,050 of preferred stock.

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ORDER.

Pennant Parlor Coach Lines, Inc., having applied to the Railroad Commission for permission to issue $190,050 of stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of $88,100 of stock is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Pennant Parlor Coach Lines, Inc., be and it hereby is authorized to issue, on or before December 31, 1927, $44,050 of its preferred stock and $44,050 of its common stock.

It is hereby further ordered, that Pennant Parlor Coach Lines, Inc., be and it hereby is authorized to deliver not exceeding $29,000 of the common stock herein authorized to be issued to H. E. Kettering in payment for his properties, leases and facilities referred to in the foregoing opinion, subject to outstanding indebtedness of $35,931.82, and to sell, for cash, at not less than par, $50 of the common stock herein authorized to be issued to its five incorporators and to use the proceeds for working capital.

It is hereby further ordered, that Pennant Parlor Coach Lines, Inc., be and it hereby is authorized to sell the remaining $15,000 of common stock and the $44,050 of preferred stock herein authorized to be issued, for cash, at not less than par, and to use an amount of the proceeds not exceeding 10 per cent of the par value of stock sold to pay commissions and expenses incident to the sale thereof, and to use the remaining proceeds, and such portion of the 10 per cent not needed to pay commissions and expenses incident to the sale of stock, to pay in whole or in part the indebtedness of $35,931.82 and to finance in part the cost of additional equipment.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof, and further, that applicant shall keep such record of the issue, sale and delivery of the stock herein authorized as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the application, in so far as it involves the issue of $30,950 of preferred stock and $71,000 of common stock be and it hereby is dismissed without prejudice.

Dated at San Francisco, California, this twelfth day of January, 1927.

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DECISION No. 17870.

IN THE MATTER OF THE APPLICATION OF EL MONTE ICE AND COLD STORAGE, INCORPORATED, A CORPORATION, TO TAKE OVER PROPERTY AND ISSUE STOCK THEREFOR.

Application No. 13391.

Decided January 12, 1927.

SECURITIES—STOCK—TO ISSUE—Holding that the manner in which applicant proposes to operate is not such as to bring it under the jurisdiction of the Commission, the application is dismissed without prejudice.

J. Vincent Hannon, for Applicant.

BY THE COMMISSION.

OPINION.

El Monte Ice and Cold Storage, Incorporated, asks permission to issue $20,000 of common stock and $17,500 of 8 per cent cumulative preferred stock and assume the payment of indebtedness in the sum of $21,031.15.

At the hearing had before Examiner Fankhauser on December 27th, testimony was submitted showing that the corporation proposes to acquire from Charles A. Baker an ice manufacturing plant and to construct a building for the primary purpose of storing ice manufactured in said plant. The ice manufacturing plant has a capacity of thirty tons, and has been in operation since March of last year. Upon the transfer of the ice manufacturing plant to the corporation, it is the intention of the corporation to construct a building, for the primary purpose of storing ice. The company will operate, beginning about March of each year, its ice manufacturing plant at full capacity and store the amount of ice manufactured in excess of that sold. By so doing it will have a reserve ice supply to meet the demand during the summer months. It is believed that from about September to March, the company will have vacant space in its ice storage building, and if so, it will, during such period, store food commodities. It is of record that the plant of the company will not have railroad facilities, that whatever commodities may be stored by applicant will be consumed locally, and not shipped to other localities.

We have considered the request of applicant for permission to issue stock and are of the opinion that the manner in which the company intends to operate its properties is not such as to bring it under the jurisdiction of the Commission for the issuance of stock, inasmuch as it does not appear that such storage is in connection with transportation of commodities stored. We therefore believe that this application should be dismissed without prejudice.

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ORDER.

El Monte Ice and Cold Storage, Incorporated, having applied to the Commission for permission to issue stock, a public hearing having been held and the Commission being of the opinion that it has no jurisdiction over the issue of the stock referred to in this application and that the application should be dismissed; therefore,

It is hereby ordered, that the above entitled application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this twelfth day of January, 1927.

DECISION NO. 17872.

E. K. LOOSELY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 2237.

Decided January 12, 1927.

RATES—STEAM RAILROAD—LOGS—REPARATION.—Southern Pacific Company directed to refund to complainant, E. K. Loosely, all charges collected in excess of $12.50 per car for the movement of 268 carloads of logs from Morrison to Barnard during the period April 21, 1925, to September 26, 1925, inclusive.

Fabius T. Finch, for Complainant.
A. L. Whittle and *James E. Lyons*, for Defendant.

BY THE COMMISSION.

OPINION.

Complainant is an individual engaged in the logging and lumbering business in Siskiyou County, California. By complaint filed May 4, 1926, and amended May 17, 1926, it is alleged that the rate assessed and collected on various carload shipments of logs moved during the period from April 21, 1925, to September 26, 1925, from Morrison to Barnard was unjust and unreasonable to the extent it exceeded $12.50 per car.

Reparation only is sought. Unless otherwise specifically noted stations named herein are in California.

A public hearing was held before Examiner Geary at San Francisco, California, June 25, 1926, and the case having been duly submitted and briefs filed, the last one on October 11, 1926, is now ready for our opinion and order.

The shipments here at issue, consisting of 268 cars, moved from Morrison on the Klamath Falls Branch of defendant, to Barnard on defendant's main line, a distance of 31 miles. The territory in which the shipments moved and that contiguous thereto will be hereafter referred to as the Klamath Falls district.

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Charges were assessed on the basis of the lawfully applicable rate of $18.50 per car, this rate being in effect from Pineland to Barnard and held as maximum from Morrison to Barnard under the provisions of the intermediate application of Rule 5-B, Southern Pacific Tariff 360-L, C. R. C. 2839.

Subsequent to the date of movement, viz, March 13, 1926, defendant voluntarily established on logs, from Morrison to Barnard, rate of $12.50 per car and it is upon the basis of this lower rate that complainant seeks reparation.

In support of the allegation that the assailed rate was unreasonable complainant relies upon a comparison of the rates in effect in the same general territory, the subsequently established rate of $12.50 per car, and the mileage scale predicted on 31 cents per car mile, with a minimum charge of $12 50 per car now used by defendant as a measure in establishing rates on logs in the Klamath Falls district.

Defendant maintains that the mileage scale referred to by complainant is on an abnormally low basis and was adopted in the latter part of 1925, about the time complainant's last shipments moved, as a measure for the rates on logs between points in the Klamath Falls district, solely for the purpose of enabling the northern California lumber mills to enlarge the scope of their log supply. The rates published under this scale, it is claimed, are less than reasonable, but their establishment was necessary in order that the finished lumber manufactured in the Klamath Falls district could be profitably marketed in California, Arizona and New Mexico in competition with lumber shipped from Oregon, Washington and British Columbia to California ports by water and distributed to interior stations by rail and auto truck. Defendant strenuously contends that the present rates barely cover the out-of-pocket costs of operation, but in order to foster the lumber industry and to secure a subsequent haul of the manufactured article and a consequential haul of other commodities it is necessary to maintain some rates that, per se, are less than reasonable.

It is alleged by defendant that the normal basis for log rates in the Klamath Falls district should be predicated on what is commonly known as the Klamath Falls Logging Scale. Prior to June 25, 1918, the rate under this scale for a haul of 31 miles was $1.50 per thousand feet, board measure, subject to a minimum load of 8800 feet. Due to the general war-time increases this rate was successively increased to $1.87½ (General Order 28 of Director General) and $2.34½ (18 C. R. C. 646), and effective July 1, 1922, was reduced to $2.11 (Reduced Rates 1922, 68 I. C. C. 676). The latter factor was used in establishing the $18.50 per car rate from Morrison to Barnard.

This contention of defendant loses much of its force by reason of the fact that it has maintained rates for a considerable length of time

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between other points in the Klamath Falls district materially less than the rates made by use of the Klamath Falls scale, and in some cases predicated on the mileage scale of 31 cents per car mile now used to make the rates on logs. These rates were $12.50 per car from Kirk, Oregon, to Algoma, Oregon, 32 miles; from Mt. Hebron to Klamath Falls, Oregon, 35 miles; from Kirk, Oregon, to Klamath Falls, Oregon, 41 miles, and from Meva (now Braymill) to Klamath Falls, Oregon, 32 miles; $15.50 per car from Chinchalo, Oregon, to Klamath Falls, Oregon, and $16.50 per car from Lenz, Oregon, to Klamath Falls, Oregon, 54 miles. The $12.50 per car rate from Kirk and Mt. Hebron was established in 1917; from Meva the rate was published effective May 6, 1922, and the last two named rates became effective July 28, 1924. Many of the Oregon rates, it is alleged, were originally established for the movement of logs in minimum train loads of 20 cars over 22 feet in length, or 40 cars less than 22 feet in length. The Interstate Commerce Commission, in 1918, found that rates predicated on trainload minimum were discriminatory as between the large and small shipper and ordered them discontinued, and while defendant discontinued the trainload provision in connection with the $12.50 per car rate the volume of the rate was not increased, upon the theory that the logs would continue to move in trainload lots.

Complainant also refers to rates on logs of $9.50 per car from Weed to Morrison, 17 miles, and $12.50 per car from Weed to Penoyer, 33 miles. Defendant testified the latter rate was published prior to the year 1909 by the California Northeastern Railway when that company operated from Bray to Weed and that when the defendant purchased the line a part of the consideration paid therefor was an agreement to maintain the log rates then in effect. Aside from the fact that such an agreement has no weight in determining the reasonableness of the rate, per se, it is significant to note that the rate established by the California Northeastern Railway, and which was in effect when defendant purchased that line, was $8.80 per car and not $12.50 per car. The former rate was increased to $11 on June 24, 1918 (General Order No. 28), was further increased to $14 on August 26, 1920 (18 C. R. C. 646), and subsequently reduced to its present level on July 1, 1922 (Reduced Rates 1922, 68 I. C. C. 676). Thus this contention of defendant's falls of its own weight, for the agreement entered into at the time of the purchase of California Northeastern Railway apparently was abrogated when the original rate of $8.80 per car was increased to $11 per car in 1918.

Defendant urges that the operating conditions in the territory extending from Morrison to Barnard are extremely severe. The record shows that the haul of 31 miles between the latter two points is over 2.92 miles of grade, varying from 1 to 2 per cent, with a total of 17.22

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miles of curved track, necessitating the use of locomotive helper service for 14.5 miles. However, the record also shows that in the haul from Weed to Morrison and from Weed to Penoyer, where defendant has voluntarily established and now maintains rates of $9.50 and $12.50 per car, respectively, the operating difficulties encountered are equally as severe as those encountered in the haul from Morrison to Barnard.

After careful consideration of all the exhibits, evidence and testimony of record in this proceeding, we are of the opinion and find that the assailed rate was, during the period April 21, 1925, to September 26, 1925, excessive and unreasonable to the extent it exceeded the $12.50 per car charge. We further find complainant paid and bore the charges on the shipments in question and has been damaged to the extent of the difference between the charges paid and those that would have accrued at the subsequently established rate of $12.50 per car and is entitled to reparation, with interest.

The exact amount of reparation due can not be determined upon this record. Complainant will submit a statement of the shipments to defendant for check and should it not be possible to reach an agreement as to the amount of reparation, the matter may be called to our attention for further consideration.

ORDER.

This case being at issue upon complaint, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion preceding this order;

It is hereby ordered, that defendant Southern Pacific Company be and it is hereby authorized and directed to refund to complainant, E. K. Loosely, all charges it may have collected in excess of $12.50 per car for the transportation of 268 carloads of logs, involved in this proceeding, moving from Morrison to Barnard, during the period extending from April 21, 1925, to September 26, 1925, both dates inclusive.

Dated at San Francisco, California, this twelfth day of January, 1927.

DECISION No. 17877.

IN THE MATTER OF THE APPLICATION OF THE BEAR VALLEY UTILITY COMPANY, A CALIFORNIA CORPORATION, FOR AUTHORITY TO ISSUE ITS SERIES "B" FIRST MORTGAGE SINKING FUND GOLD BONDS IN THE AGGREGATE AMOUNT OF NINETY THOUSAND DOLLARS.

Application No. 12503.

Decided January 12, 1927.

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BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Bear Valley Utility Company, by Decision No. 16049, dated March 2, 1926, in the above entitled matter, was authorized to issue and sell on or before December 31, 1926, $90,000 of its Series "B" first mortgage 7 per cent bonds due September 1, 1944. The order of the Commission provides that the company shall sell its bonds at not less than 92 per cent of face value plus accrued interest, and that it may use $46,000 of the proceeds to pay short term notes, and not exceeding $23,836.21 to finance estimated expenditures to be made during 1926. The remaining proceeds and such portion of the $69,836.21 not needed to pay indebtedness and to finance expenditures for 1926 may be used only for such other purposes as the Commission might authorize in supplemental orders.

It appears that the company has issued and sold $64,500 of the bonds authorized and that it has expended all of the proceeds, amounting to $59,340. In a supplemental petition filed on January 3, 1927, it asks permission to use the proceeds from the remaining $25,500 of bonds for the purpose of financing certain additions, betterments and improvements to its system, to be made during the year 1927. These are described in a supplemental petition as follows:

Fixed capital—telephone—		
Central office equipment	$5,824 73	
Telephone exchange and aerial cable	2,665 06	
Telephone exchange underground cable	984 66	
Booths and special fittings	163 12	
Installing 50 new telephone services	2,368 95	
Total telephone additions		$12,006 52
Fixed capital—electric—		
Miscellaneous power pole line extensions	$3,643 95	
Installing 100 new electric meters and services	1,715 15	
Total electric additions		5,359 10
Fixed capital—water		
Pump station buildings and structures	$2,647 71	
Installing 50 new water meters and services	2,742 57	
Total water additions		5,390 28
Fixed capital—general—		
Miscellaneous equipment		496 00
Total additions		$23,251 90

We have given consideration to applicant's request and are of the opinion that the money, property or labor to be procured or paid for through the issue of $25,500 of bonds is reasonably required by applicant, and that such expenditures are not in whole or in part reasonably

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chargeable to operating expenses or to income, and that the supplemental petition should be granted as herein provided; therefore,

It is hereby ordered, that the order in Decision No. 16049, dated March 2, 1926, be and it hereby is modified so as to permit Bear Valley Utility Company to use not exceeding $23,251.90 of the proceeds received or to be received from the sale of the bonds authorized therein to finance the cost of the additions, betterments and improvements referred to herein.

It is hereby further ordered, that the time within which Bear Valley Utility Company may issue and sell the bonds authorized by the order in Decision No. 16049, dated March 2, 1926, be and it is hereby extended to and including March 31, 1927.

It is hereby further ordered, that the order in Decision No. 16049, dated March 2, 1926, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this twelfth day of January, 1927.

DECISION NO. 17882.

IN THE MATTER OF THE APPLICATION OF DAVIES WAREHOUSE COMPANY, FOR ORDER AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE LEASEHOLD SEVEN PER CENT SINKING FUND GOLD BONDS TO THE FACE VALUE OF ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS; NOTES PAYABLE ON OR BEFORE FEBRUARY 1, 1928, NOT TO EXCEED A TOTAL OF THIRTY-FIVE THOUSAND DOLLARS; SEVEN PER CENT CUMULATIVE PREFERRED STOCK TO THE FACE VALUE OF FIFTY THOUSAND DOLLARS, AND COMMON STOCK TO THE FACE VALUE OF THIRTY THOUSAND DOLLARS.

Application No. 10767.

Decided January 12, 1927.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

In the above entitled application filed with the Commission on January 21, 1925, Davies Warehouse Company asked permission to issue $175,000 of 7 per cent ten-year bonds, $35,000 of notes payable, $50,000 of 7 per cent cumulative preferred stock and $30,000 of common stock.

The Commission, in passing on the application, in Decision No. 14604, dated February 26, 1925, and Decision No. 16017, dated February 19, 1926, authorized the issue and sale of the $175,000 of bonds and of $30,000 of preferred stock and $30,000 of common stock, subject among others to the condition that none of the stock be issued until applicant has collected all amounts due from its stockholders. Under the authority granted the bonds were issued and sold. It

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appears that none of the stock authorized was issued and permission to do so expired on November 30, 1926.

Applicant now reports that the indebtedness due it from its president, Charles T. B. Jones, has been canceled by the surrender to it of $15,000 of its capital stock on July 27, 1926, and the further surrender of $7,500 of stock on December 1, 1926. It is said that certificates representing such stock have been transferred to R. M. Farrar, trustee for Davies Warehouse Company, to be sold for its account. Through the surrender of the stock, $22,500 of indebtedness was canceled, leaving $1,219.72 still due from Charles T. B. Jones. The $1,219.72 is represented by a note signed by Charles T. B. Jones and his wife, Lillian B. Jones. We believe that the account of Charles T. B. Jones should be credited with the proceeds realized from the sale of the stock which he surrendered and not with the par value of such stock.

In a supplemental petition filed in this matter on December 27, 1926, the company asks for an order authorizing it to issue and sell $40,000 of the 7 per cent preferred stock and $20,000 of the common stock and to use not to exceed 20 per cent of the proceeds to pay selling expenses and to use the remaining proceeds to liquidate indebtedness due the Hammond Lumber Company, to meet sinking fund payments and to provide itself with working capital.

It appears that in order to finance the cost of a new warehouse the company became indebted to Hammond Lumber Company in the sum of $35,000 due March 1, 1926, of which $32,000 is now unpaid. The lumber company now is demanding payment of this balace. Further, under the terms of the mortgage securing the payment of the $175,000 of bonds authorized to be issued by Decision No. 14604, the company is required to deposit on February 1, 1926, and on the first day of each month thereafter until all the bonds have been paid, the sum of $900, which sums must be used by the trustee to redeem bonds at not exceeding 105 per cent of face value plus accrued interest.

The company asks permission to use twenty per cent of the par value of the stock sold to pay selling expenses. In our opinion the company should not use more than 15 per cent of the proceeds realized from the sale of the stock to pay stock selling expenses. In our opinion the money, property or labor to be procured or paid for through the issue of the stock is reasonably required for the purposes specified and we believe the request should be granted, as provided herein; therefore,

It is hereby ordered, that Davies Warehouse Company be and it hereby is authorized to issue and sell for cash at not less than par on or before June 30, 1927, $40,000 of its 7 per cent cumulative preferred stock and $20,000 of its common stock and to use not exceeding

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15 per cent of the par value of stock sold to pay commissions and expenses incident to the sale of the stock and to use the remaining proceeds, and such portion of the 15 per cent not needed to pay commissions and expenses incident to the sale of the stock, to liquidate the indebtedness due Hammond Lumber Company, to meet sinking fund payments and to provide itself with working capital.

It is hereby further ordered, that the authority herein granted will become effective upon the date hereof, and, further, that applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

It is hereby further ordered, that Davies Warehouse Company reverse its journal entry of July 27, 1926, and its journal entry of November 30, 1926, whereby Charles T. B. Jones was credited with the face value of the stock which he turned over to R. M. Farrar as trustee for Davies Warehouse Company to be sold for its account, and that he be credited with the proceeds realized from the sale of such stock.

Dated at San Francisco, California, this twelfth day of January, 1927.

DECISION No. 17886.

SUMMER HOME PARK IMPROVEMENT CLUB

vs.

MR. AND MRS. JAMES EVA.

Case No. 2260.

IN THE MATTER OF THE APPLICATION OF JAMES M. EVA AND FLORENCE V. EVA, FOR AN ORDER AUTHORIZING A CHANGE OF RATE AND A UNIFORM FLAT RATE FOR WATER SERVICE.

Application No. 13137.

Decided January 12, 1927.

RATES—SERVICE—WATER UTILITY.—Finding defendants have been rendering inadequate and insufficient service, and that improvements are urgently required in order that adequate and proper service may be rendered, the Commission directs them to file a scale of rates fixed by the Commission, and which will result in an income making possible the necessary improvements of the service.

George A. Applegarth, for Summer Home Park Improvement Club.
Edward A. O'Brien, for James M. Eva and Florence V. Eva.

BY THE COMMISSION.

OPINION.

James M. Eva and Florence V. Eva, his wife, are the owners of a public utility water system which supplies water for domestic purposes to the residents of the summer resort known as Summer Home

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Park, located on the Russian River near the town of Hilton, Sonoma County. The Summer Home Park Improvement Club is a civic organization formed by the park residents for the purpose of furthering the welfare of the community.

In Case No. 2260, as entitled above, complaint is made by the Summer Home Park Improvement Club that the water service furnished the consumers during the summer season is inadequate and not sufficient for their ordinary domestic needs, and the Commission is requested to order the utility to improve its water system and methods of operation. Subsequent to the filing of the above complaint James M. Eva and Florence V. Eva filed with the Commission Application No. 13137, for an increase in rates.

In the above application it is alleged in effect that the present rates are inadequate to produce the revenue necessary to return to applicants the cost of rendering the present service of water to their consumers, and that in order to provide the additional and improved service which is now demanded, applicants will be burdened not only with an added capital expenditure for the necessary additions and betterments to increase the capacity of the system but also with increased operating expenses. Wherefore the request is made that the Commission issue an order authorizing such increased rates as may be found just and reasonable.

The above proceedings were consolidated for the purpose of taking testimony and for decision, and a public hearing thereon was held at Summer Home Park before Examiner Austin, after all interested parties had been duly notified and given an opportunity to appear and be heard.

The water supply of this utility is obtained mainly by pumping from a well located on the bank of the Russian River. In addition, a gravity supply is obtained from certain springs, but the small quantity available from this source during the peak drafts on the system from July to September is negligible. The distribution system consists of about 12,000 lineal feet of standard screw pipe, largely one and two inches in diameter. The water is delivered directly into the distribution mains and the excess flows into three small storage tanks, the largest having a capacity of 12,000 gallons. At present there are about ninety houses on the tract, occupied largely by summer residents. A summer resort hotel is the largest individual user of water. There are no meters on this system and charges are based upon the schedule of rates established by this Commission in its Decision No. 5416, dated May 24, 1918, as follows:

Flat Rates.

(a) Six dollars annually to be paid in advance.
(b) In addition to the annual charge, payment for each month during which any water is used as follows:

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(1) Additional flat rates—		
June and July		$1 25
Remaining months		0 50
The minimum charge to be $12 per calendar year.		
(2) Additional meter rates—		
For all use	$0 25 per 100 cubic feet	
Minimum, per month	0 50 per 100 cubic feet	

The evidence shows that for a number of past years the quantity of water delivered by this utility has been insufficient and the service rendered inadequate for the needs of its consumers during the summer months, which is the only time water is required by the majority of the users. This condition can be greatly improved by the installation of an additional storage tank properly located and having a capacity of not less than 25,000 gallons. The existing electrically driven pump is very old and in a poor condition of repair. To remedy this unreliable and hazardous situation a standby pumping unit should be installed without delay in order that delivery of water may be maintained in case of a breakdown requiring extensive repairs. In the past very serious inconvenience and annoyance has been suffered by the residents from this source. It is estimated that these improvements can be installed and connected up with the present system for approximately $2,500.

At the time rates were established in 1918 the value of the investment in the plant and equipment of this utility was found to be $3,570. The evidence shows that the additions and betterments to capital installed subsequent thereto amount to $600, which would make the total estimated original cost of the used and useful properties $4,170. The consumers have demanded that this system be repaired and necessary improvements installed to provide proper service. The evidence clearly shows that this should be done. The owners have agreed to improve the plant provided they are given a reasonable return upon their investment. The estimated costs of the necessary improvements added to the present plant result in a total of $6,670, which will be a reasonable rate base for the purpose of this proceeding, contingent upon the installation of the improvements which will be provided for in the following order. The corresponding depreciation annuity will amount to $117, computed by the 5 per cent sinking fund method.

At the hearing M. I. Reed, one of the Commission's engineers, submitted a report covering the results of a field investigation of the utility and analysis of its past operations. It was found that the accounts have not been kept in an accurate or systematic manner and difficulty was experienced in making a segregation of the items properly chargeable to operating expenses and to the capital accounts. From the data available, however, and taking into consideration present operating

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conditions, it appears that $900 will be a reasonable allowance to cover the annual maintenance and operation expenses for the immediate future.

The present rates produced a gross revenue of $758 in 1924 and $945 in 1925. It appears, however, that the hotel, which is the largest user of water and is operated by the same interests which are at present operating the water system, has contributed a very small amount, if any, to above revenues. From a study and analysis of the character and amount of the present water use, the schedule of rates established in the following order has been computed and designed to yield a fair return on the rate base set out above, considering the present condition of development of the area served, and to effect a more equitable distribution of the charges to the various consumers according to their respective uses of water.

ORDER.

Summer Home Park Improvement Club having filed a formal complaint against James M. Eva and Florence V. Eva, owners of the unincorporated public utility water system which supplies water for domestic purposes in the realty subdivision known as Summer Home Park, and James M. Eva and Florence V. Eva having filed an application for an increase in the rates charged for water delivered to their consumers in said Summer Home Park, a public hearing having been held in the above proceedings, which by stipulation were consolidated for hearing and decision, and the Commission being now fully informed in the matter:

It is hereby found as a fact that the water service rendered by the system owned by James M. Eva and Florence V. Eva to the consumers in Summer Home Park has been inadequate and insufficient and that improvements to this water system are urgently and reasonably required in order that adequate and proper service may be rendered; and

It is hereby further found as a fact that the present rates charged by James M. Eva and Florence V. Eva, in so far as they differ from the rates herein established, are unjust and unreasonable for the rendering of adequate service and that the rates herein established are just and reasonable rates to be charged for water delivered to consumers for such adequate and proper service.

And basing its order upon the foregoing findings of fact and upon the statement of fact contained in the opinion preceding this order;

It is hereby ordered, that James M. Eva and Florence V. Eva be and they are hereby authorized and directed to file with this Commission within twenty days from the date of this order, the following schedule of rates to be charged for water delivered to their consumers

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in the Summer Home Park subdivision, to become effective as hereinafter provided.

Schedule of Rates.

Flat rates—	
1. Minimum annual charge, payable in advance, which entitles consumer to water service for domestic purposes for five consecutive months	$12 00
For each additional month of the calendar year over five, that water is used	1 00
2. Flat rates for service for the entire calendar year, payable in advance, which entitles consumer to water service for domestic purposes	15 00
3. For the hotel property: Flat rate, payable in advance for water service during the entire calendar year	150 00
Metered rates—	
1. Minimum annual charge, payable in advance, which entitles consumer to 400 cubic feet of water per month for five consecutive months	$12 00
For each additional month of the calendar year over five, that water is used, for 400 cubic feet or less per month	1 00
For all use of water in excess of the minimum quantity:	
For 400 to 2000 cubic feet per month, per 100 cubic feet	25
All use over 2000 cubic feet per month, per 100 cubic feet	15
2. Minimum annual charge for 12 months' service, payable in advance, which entitles consumer to 400 cubic feet of water per month	15 00
For use from 400 to 2000 cubic feet per month, per 100 cubic feet	25
All use over 2000 cubic feet per month, per 100 cubic feet	15

It is hereby further ordered, that James M. Eva and Florence V. Eva shall, within thirty days from the date of this order, submit to this Commission, for its approval, plans and specifications for the improvement of the water storage and pumping facilities which will remedy the existing condition of inadequate and insufficient service to consumers, and that following such approval by the Commission, the installation of such improvements shall be made in accordance therewith and completed and in proper operation not later than the first day of June, 1927.

It is hereby further ordered, that the schedule of rates established in the order herein shall not become effective except upon the completion of the improvements as ordered herein and the acceptance thereof by supplemental order of this Commission.

It is hereby further ordered, that James M. Eva and Florence V. Eva be and they are hereby directed to file with the Commission, within thirty days from the date of this order, revised rules and regulations governing their relations and service to consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twelfth day of January, 1927.

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DECISION NO. 17887.

IN THE MATTER OF THE APPLICATION OF THOMAS PARKHILL TO HAVE WATER RATES ESTABLISHED.

Application No. 13193.

Decided January 12, 1927.

RATES—WATER UTILITY—METERED SERVICE—SERVICE AREA.—Rates established for metered service that are designed to produce a reasonable return under the conditions of operation, but a full return is held to be in excess of the value of the service rendered. Service area should not be extended.

Thomas Parkhill, in propria persona.
M. E. Finn, J. F. Williams, A. O. Donogh and *G. Abraham*, consumers, for themselves.

BY THE COMMISSION.

OPINION.

Thomas Parkhill, the applicant herein, operates an unincorporated public utility water system which supplies water for domestic purposes to certain residents in the real estate subdivision known as Ridge Park tract located near the town of Concord, in Contra Costa County. In the application the request is made that this Commission establish a schedule of metered rates for water delivered and that the limits of the service area of this utility be defined and fixed.

A public hearing in this matter was held before Examiner Satterwhite at Concord after all interested parties had been notified and given an opportunity to appear and be heard.

This water supply system was originally installed about 1913 by the Ridge Park Improvement Company, a corporation, to provide the necessary water service for their real estate subdivision then being marketed and known as Ridge Park tract. In 1919 the Ridge Park Improvement Company was involved in financial difficulties and the corporation became defunct. Thereupon Thomas Parkhill, applicant herein, made arrangements with the Improvement Company to operate the plant primarily to insure water service to his own property. It appears that in 1914 Parkhill acquired six lots in the tract, including Lots No. 51 and No. 46 on which the wells and tank were located; however, the title to the pumping plant, wells and tank had been reserved to the Improvement Company. This arrangement continued until the year 1924, when Parkhill, as assignee of the Ridge Park Improvement Company, acquired the existing water plant for a consideration of $250 and has since continued to operate the system.

As the result of a complaint filed by certain of the water users to the effect that Parkhill had discontinued service to them, the Commission in its Decision No. 15932 dated February 5, 1926, declared this plant to be a public utility and directed said Parkhill to file his rates, rules and regulations with the Commission.

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The water supply is obtained from two 14-inch wells about 36 feet deep located on Lot No. 51. An electrically driven pump delivers the water into a 15,000 gallon galvanized iron tank, from which it is distributed by gravity through approximately 3240 lineal feet of 2-inch standard screw pipe. The service pipes were installed by the consumers, together with small private storage tanks on their premises necessary to conserve the limited water supply. At present water is furnished to six consumers on a flat rate of $2 per month. These consumers and the lots served are as follows:

Abraham	Lot No. 1
Finn	Lot No. 10
Donogh	Lots Nos. 19, 20, 25 and 31
Bedenbaugh	Lot No. 21
Williams	Lot No. 22
Parkhill	Lots Nos. 46, 47, 48, 49, 50 and 51

A report was submitted at the hearing in this matter by R. E. Savage, one of the Commission's hydraulic engineers, in which the original cost of the system was estimated to be $2,545 as of October 31, 1926, and the depreciation annuity, computed by the 5 per cent sinking fund method, found to be $63. No other appraisal of the properties was submitted. Very incomplete records of maintenance and operation expenses have been kept by applicant. However, from an analysis of such data as were available, the Commission's engineer estimated that the sum of $191 would be a reasonable allowance for maintenance and operation expenses of this system for the immediate future.

The evidence shows that the water supply is very limited and is insufficient to provide in the future for the entire tract. Service at no time has been given permanently to consumers other than those now served, and during the summer months the amount of water available is inadequate to meet the demands of the present consumers. In the past some water has been used to irrigate fruit trees on some of the consumers' premises, but this service should be strictly limited to such periods as will enable the domestic requirements to be fully met.

In view of the limited water supply and the fact that service has been confined to specific property, it appears necessary, in order to provide any reasonable service at all for the present consumers, that the obligations of this utility should not be extended beyond those now served.

The rate schedule established in the following order has been designed to yield an annual revenue sufficient to return the necessary maintenance and operation expenses, including depreciation, and in addition produce such a return upon the investment as is reasonable under the conditions of operation. A full return upon the investment

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at this time would result in a rate in excess of the value of the service rendered.

ORDER.

Thomas Parkhill having made application to the Railroad Commission as entitled above, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed thereon:

It is hereby found as a fact that the rates now charged by Thomas Parkhill for water supplied to his consumers in the Ridge Park tract, near Concord, Contra Costa County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for the service rendered;

It is hereby ordered, that Thomas Parkhill be and he is hereby directed to file with this Commission within twenty days from the date of this order the following schedule of rates to be charged for all water delivered to consumers on and after February 1, 1927:

Flat Rates.

Private residences	$3 00 per month

Measured Rates.

Monthly minimum charges—	
¾ and ¾-inch meter	$3 00
1-inch meter	5 00
1½-inch meter	8 00

Each of the foregoing "monthly minimum charges" will entitle the consumer to the quantity of water which that minimum will purchase at the "monthly meter rates" set out as follows:

Monthly meter rates—	
From 0 to 600 cubic feet, per 100 cubic feet	$0 50
From 600 to 1000 cubic feet, per 100 cubic feet	40
All over 1000 cubic feet, per 100 cubic feet	25

It is hereby further ordered, that Thomas Parkhill shall file with this Commission within thirty days from the date of this order, rules and regulations governing relations with his consumers, such rules and regulations to become effective upon acceptance by this Commission.

It is hereby further ordered, that the service area of this utility be and it is hereby limited to lots Nos. 1, 10, 19, 20, 21, 22, 25, 31, 46, 47, 48, 49, 50 and 51, Ridge Park tract, Contra Costa County.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twelfth day of January, 1927.

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DECISION No. 17890.

IN THE MATTER OF THE APPLICATION OF EL PIZMO WATER COMPANY, A CORPORATION, W. CLYDE HEDDING, JOHN PLEASAS, J. B. BUTLER, J. R. SIMMONS, ADAM ULM, E. P. EBNER, ADOLPH UMBEHEND, HANS P. SKOV, CHARLES E. BELL AND G. M. HEDDING, COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF CITIZENS WATER ASSOCIATION, FOR AN ORDER AUTHORIZING THE SALE OF THE PROPERTY AND WATER FRANCHISE OF CITIZENS WATER ASSOCIATION TO EL PIZMO WATER COMPANY, A CORPORATION.

Application No. 13328.

IN THE MATTER OF THE APPLICATION OF EL PIZMO WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE AND SELL ITS SECURITIES.

Application No. 13338.

Decided January 12, 1927.

TRANSFER—WATER UTILITY—STOCK—TO ISSUE.—Citizens Water Association granted permission to transfer water system in the town of Pismo Beach to El Pizmo Water Company, and the latter is authorized to issue $26,000 of 6 per cent cumulative preferred stock and $19,000 of common stock for the purpose of paying therefor, and making necessary improvements.

M. R. Van Wormer, for Applicants.

BY THE COMMISSION.

OPINION.

In Application No. 13328 the Citizens Water Association, a partnership consisting of W. Clyde Hedding, John Plessas, J. B. Butler, J. R. Simmons, Adam Ulm, E. P. Ebner, Adolph Umbehend, Hans P. Skov, Charles E. Bell and G. M. Hedding asked permission to transfer a public utility water system to the El Pizmo Water Company, in exchange for $30,000 of stock of that company, divided into $15,000 par value of common and $15,000 par value of 6 per cent cumulative preferred stock.

In Application No. 13338 the El Pizmo Water Company asks permission to issue the aforementioned stock in payment for said properties and further issue and sell $30,000 of its 6 per cent cumulative preferred and $15,000 of its common stock at par for the purpose of qualifying its directors, reconstructing the water system which it intends to acquire, and extend and improve the same.

The water system now owned by the Citizens Water Association was acquired by that association pursuant to the authority granted by the Commission in Decision No. 15947, dated February 6, 1926, as amended.

The water system consists of easements, water pipes, reservoirs, mains, rights of way, franchises, conduits, flumes, pumps and distributing mains operated for the purpose of supplying water to the inhabitants of Pismo Beach and vicinity. Five of the members of the Citizens

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Water Association desire to withdraw from the association. The other five have agreed to acquire the interests of those who desire to withdraw. They believe, however, that the properties can be operated to better advantage by a corporation and they therefore have caused to be organized the El Pizmo Water Company, a corporation. The corporation has been organized under and by virtue of the laws of the State of California. It has an authorized capital stock of $75,000 divided into $45,000 of 6 per cent cumulative preferred and $30,000 of common. The articles of incorporation provide that no assessments shall be assessed against or levied upon either the common or preferred stock. In authorizing the issue of the stock referred to herein, this Commission does not determine whether assessments can be levied upon the stock. The articles of incorporation further provide that the holders of the preferred stock shall be paid a six per cent cumulative dividend, and that such dividend be paid before any dividend shall be paid to the holders of common stock. Neither the articles of incorporation nor any action taken by this Commission guarantees the payment of dividends on the preferred stock.

It is of record that the Citizens Water Association paid $9,000 for the properties acquired pursuant to the authority granted by Decision No. 15947. Subsequent to the date of such decision the Commission was called upon to fix the rates to be charged by the Citizens Water Association. In Decision No. 16906, dated June 14, 1926, the Commission used $30,000 as a rate base. This rate base represented the estimated original cost of the water system plus approximately $10,000 for additions, betterments and improvements which had been installed by the Citizens Water Association or were about to be installed by it. In the petitions now before the Commission it is represented that up to October 27, 1926, the association expended $10,277.99 for the following purposes:

New wells	$3,540 42
New distributing mains	2,789 09
Motor equipment for wells	350 00
Meters	1,468 91
Repairs to distribution mains	2,129 57
Total	$10,277 99

As said, the Commission's rate base included an estimate of the original cost ($20,129) of the water system purchased by the Citizens Water Association for $9,000. In the rate decision the Commission calculated the depreciation charges by using the sinking fund method which obviated the necessity of determining the present value of the properties. We are now confronted with a request to permit a transfer of said properties, including the aforementioned additions and betterments to October 27, 1926, to a corporation on the alleged value of

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$30,000 and permit such corporation to issue $15,000 of 6 per cent cumulative preferred stock and $15,000 of common stock in payment for the properties. If the estimated original cost of the properties is used as a basis for the issue of securities, the amount that is or should be in the reserve for accrued depreciation should be considered as part of the capitalization of the properties. Applicants submitted no evidence showing what such amount is or should be. Therefore, for the purpose of this proceeding we will regard the $9,000 paid by the Citizens Water Association for the properties as representing the value of the properties at that time and add thereto the amount expended by the association to Ocober 27, 1926, for additions, betterments and improvements of the system. The order herein will authorize the issue of $20,000 of stock divided into $10,000 of common and $10,000 of 6 per cent cumulative preferred in payment for the properties free and clear of all indebtedness of the Citizens Water Association as the same existed on October 27, 1926.

The company asks permission to issue and sell at par $30,000 of its 6 per cent cumulative preferred stock and $15,000 of its common stock and use the proceeds for the following purposes:

$3,500 00	for pump, motor and completion of system.
8,500 00	for new reservoir with a capacity of 250,000 gallons.
7,500 00	for 8-inch mains of an approximate length of 5000 feet from the new wells of the reservoir.
20,328 00	for six-inch mains of an approximate length of three and one-half miles to give service to new subdivisions located north of the town of Pismo Beach.
2,000 00	for 4-inch mains of an approximate length of 5000 feet to furnish fire protection.
1,250 00	for 2-inch mains approximately 5000 feet in length.
1,522 00	for excavating for 2-inch and 4-inch pipe and relaying the same.
400 00	to cover cost of engineering work.
$45,000 00	

The proposed expenditures include $20,328, which applicant intends to expend for the purpose of laying approximately three and one-half miles of six-inch mains to supply water to new subdivisions located to the north of the town of Pismo Beach. No estimate was submitted as to the probable revenue that the company would obtain from such an expenditure. It occurs to us that unless the El Pizmo Water Company is assured of a definite and certain income by the subdividers which will represent a reasonable return on the $20,328 that those who request the company to construct the extension should finance the same in accordance with the company's rules and regulations. The order herein will not permit the issue of stock for the purpose of paying for such extension. If after negotiation with the subdividers the company submits satisfactory information showing that it is assured of a reasonable return because of such expenditures, we will give further consideration to the request to issue stock to finance such extensions.

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It is of record that the town of Pismo has no fire protection, and that the insurance rates in the business section of the town average about $10 per year on the $100 of insurance. The company proposes to lay adequate mains and install fire plugs for fire protection, provided a fire district is formed. The cost of this work is estimated at $2,000. However, to give adequate fire protection the company will have to enlarge its reservoir, and the mains leading from the wells to the reservoir.

We believe that before the company begins the enlargement of its system it should have a competent engineer make a survey of the same and submit his report to the Commission for approval. The order herein will authorize the issue and sale of $16,000 of preferred and $9,000 of common stock to pay for the additions and betterments and improvements referred to herein, other than the extension to new subdivisions. The proceeds from the sale of said stock, however, may be expended only for the purposes hereafter authorized by the Commission. Before such authority will be granted, the company must submit the aforesaid report of an engineer.

Adolph Umbehend, secretary of applicant, testified that he believes the corporation can sell its stock at par without paying any commission to sell the same.

ORDER.

Applications having been filed by the Citizens Water Association, a copartnership, and El Pizmo Water Company, for permission to transfer and acquire properties and issue stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the transfer of the properties referred to in the opinion which precedes this order, should be granted and that El Pizmo Water Company should at this time be permitted to issue not exceeding $26,000 of its 6 per cent cumulative preferred stock and $19,000 of its common stock, and that the money, property or labor to be procured or paid for by such issue, is reasonably required by the company and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income:

It is hereby ordered, as follows:

1. Citizens Water Association, W. Clyde Hedding, John Plessas, J. B. Butler, J. R. Simmons, Adam Ulm, E. P. Ebner, Adolph Umbehend, Hans P. Skov, Charles E. Bell and G. M. Hedding be and they are hereby authorized to sell all of their public utility properties to the El Pizmo Water Company, which is hereby permitted to acquire said properties and issue in payment therefor as the same existed on October 27, 1926, provided it acquire the same free and clear of all indebt-

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edness, $10,000 of its 6 per cent cumulative perferred stock and $10,000 of its common stock.

2. El Pizmo Water Company is hereby authorized to issue and sell for cash at not less than par on or before October 1, 1927, $16,000 of its 6 per cent cumulative preferred stock and $8,950 of its common stock and expend the proceeds for such purposes as the Commission will authorize by a supplemental order or orders.

3. El Pizmo Water Company may issue and sell for cash at not less than par on or before October 1, 1927, five shares ($50 par value) of its common capital stock to its incorporators and use the proceeds to pay organization expenses.

4. El Pizmo Water Company shall deposit all proceeds obtained from the sale of the said $16,000 of preferred and said $8,950 of common stock in a bank or banks until such time as the Commission by supplemental order will authorize the expenditure of the said proceeds.

5. The authority herein granted to transfer properties and issue stock will become effective upon the date herein.

6. El Pizmo Water Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

7. Application No. 13338, in so far as it involves the issue of $5,000 of 6 per cent cumulative preferred and $5,000 of common stock in payment for the properties which the company intends to acquire from the Citizens Water Association, a copartnership, be and the same is hereby denied without prejudice.

Dated at San Francisco, California, this twelfth day of January, 1927.

DECISION No. 17891.

IN THE MATTER OF THE APPLICATION OF THE SWEETWATER WATER CORPORATION, A CORPORATION, FOR AN ORDER AUTHORIZING ISSUE OF STOCK.

Application No. 13442.

Decided January 12, 1927.

SECURITIES—STOCK—TO ISSUE.—Application granted.

BY THE COMMISSION.

OPINION AND ORDER.

The Sweetwater Water Corporation has applied to the Railroad Commission for permission to issue and sell at par five shares of its

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common stock of the aggregate par value of $500 to its incorporators, for the purpose of paying in part its organization expenses.

The application shows that The Sweetwater Water Corporation was organized on or about December 18, 1926, with an authorized capital stock of $2,500,000 divided into $1,500,000 of common stock and $1,000,000 of 7 per cent cumulative preferred stock. The issue of preferred stock is not now before us. If applicant hereafter files an application to issue preferred stock, we will at that time determine the rate of dividend that should be paid on such stock.

Applicant reports that subject to the permission of the Railroad Commission it is about to engage in the business of a water works company, particularly in the service of water in the county of San Diego.

We have given consideration to the request of applicant to issue $500 of its common stock and are of the opinion that this is a matter in which a public hearing is not necessary, that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income.

It is hereby ordered, that The Sweetwater Water Corporation be and it hereby is authorized to issue and sell for cash at not less than par $500 of its common capital stock and to use the proceeds to pay in part its organization expenses; provided, that said The Sweetwater Water Corporation may not acquire any public utility water plant or plants, or engage in the operation of such plants, except as hereafter authorized by the Commission.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof and that applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twelfth day of January, 1927.

DECISION No. 17893.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR PERMISSION TO CANCEL CERTAIN RATES ON FOREST PRODUCTS.

Application No. 13158.

Decided January 12, 1927.

RATES—STEAM RAILROAD—TO CANCEL—FOREST PRODUCTS.—Application granted.

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J. E. Lyons and *F. W. Mielke*, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by the Southern Pacific Company under section 63 of the Public Utilities Act for permission to cancel from its Tariff 634-C, C. R. C. 2848 certain commodity rates on forest products from Bakersfield to Fresno, Cando, Reedley, Monson, Famosa, Fowler, Slater, Lerdo, Saco, Oil City and Porque as set forth in Exhibit "A" attached to and made a part of the application.

The applicable rates after cancellation of the commodity rates will be the Class B, as shown in Southern Pacific Company Tariff 711-C and specifically set forth in Exhibit "A" referred to above.

A public hearing was held at San Francisco October 14, 1926, before Examiner Geary and the case being duly submitted is now ready for an opinion and order.

Witness for the applicant testified that the rates to Oil City and Porque were established March 24, 1909, as proportional rates only, and to the other points involved April 15, 1922, the latter rates upon request of the Bakersfield Sandstone and Brick Company, which company, however, failed to produce any tonnage and made no shipments of forest products from Bakersfield after the rates were established. Applicant submitted an exhibit showing that only two carloads of forest products had moved under the present rates during the period from April 15, 1922, to March 31, 1926. The shipments consisted of poles moved from Bakersfield to Fresno for the San Joaquin Light and Power Company and a representative of that company advised the applicant under date September 12, 1926, they would offer no objection to the cancellation of the rates.

Commodity rates covering forest products were also established April 15, 1922, by The Atchison, Topeka and Santa Fe Railway Company from Bakersfield to points on that line located in the San Joaquin Valley and said rates were canceled September 1, 1926, by special permission of this Commission in its order dated July 21, 1926.

Bakersfield is not a lumber-producing station and the commodity rates here involved applying only to the few points north of Bakersfield have been practically lifeless and a burden in the tariff.

There were no appearances in opposition, although shippers were notified of the hearing.

Upon consideration of all the facts of record, we are of the opinion and find that applicant should be permitted to cancel the rates on forest products as set forth in Exhibit "A" attached to the application and published in Tariff 634-C, C. R. C. 2848, Item 230-E.

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ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which is hereby referred to and made a part hereof;

It is hereby ordered, that the application of Southern Pacific Company be and the same hereby is granted, and applicant is hereby authorized to cancel the rates on forest products as set forth in Exhibit "A" attached to and made part of the application and published in Item 230-E Southern Pacific Company Tariff 634-C, C. R. C. 2848.

Dated at San Francisco, California, this twelfth day of January, 1927.

DECISION NO. 17899.

CALIFORNIA PACKING CORPORATION

vs.

SOUTHERN PACIFIC COMPANY AND WESTERN PACIFIC RAILROAD COMPANY.

Case No. 2281.

Decided January 12, 1927.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Upon further consideration of the record in the above entitled proceeding and of defendants' communication for a modification of the order entered herein;

It is hereby ordered, that the second paragraph of the order entered in Decision No. 17675 on November 29, 1926, be and it is hereby modified and amended to read as follows:

> *It is hereby ordered*, that defendants, Southern Pacific Company and Western Pacific Railroad Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, California Packing Corporation of San Francisco, California, reparation in the sum of $24.87 account prejudicial and discriminatory charges assessed and collected for the transportation of ten carloads of box shook, involved in this proceeding, forwarded during the period from December 4, 1924, to October 15, 1925, from Loyalton and Calpine to Suisun-Fairfield.

This is a supplemental order to correct ambiguous language used in the order. The language used made it appear that defendants admitted the rate collected was unreasonable, whereas they only admitted it was prejudicial and discriminatory.

Dated at San Francisco, California, this twelfth day of January, 1927.

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DECISION No. 17904.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA PARLOR CAR TOURS COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCES AND NECESSITY TO OPERATE TWO-DAY TOUR BETWEEN LOS ANGELES AND SAN FRANCISCO.

Application No. 12281.

Decided January 13, 1927.

CERTIFICATE—AUTO STAGES—TOUR SERVICE.—Application granted.

Devlin and Brookman, by *Douglas Brookman*, for Applicant,
Warren E. Libby, for Pickwick Stages System, Pickwick Stage Line and Motor Transit Company, Protestants.
H. W. Hobbs, for Southern Pacific Company, Protestant.
Earl A. Bagby, for California Transit Company, Protestant.
Richard tum Suden, for Pacific Highway Association.
T. M. Cole for Los Angeles Steamship Company, Protestant.
W. Ansbach, for Inspiration Point Restaurant, in support of application.

BY THE COMMISSION.

OPINION.

California Parlor Car Tours Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the establishment of a two-day tour over the public highway between San Francisco and Los Angeles for the transportation of passengers and baggage.

Public hearings on this application were conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

Applicant is now operating a three-day tour between San Francisco and Los Angeles by virtue of the authority contained in this Commission's Decision No. 14035 on Application No. 9936, decided September 10, 1924, which was granted to J. A. Boyd and R. C. Smith, copartners, operating under the fictitious name of Parlor Car Tours. By its order as contained in Decision No. 14436 on Application No. 10661, decided January 8, 1925, the copartnership of Boyd and Smith was authorized to transfer the operative right to the applicant herein.

Applicant proposes to establish a two-day tour between Los Angeles and San Francisco for which a rate of $30.50 will be assessed, said rate including transportation, overnight hotel accommodations and meals en route.

It is proposed to inaugurate the service by providing one round trip per week, leaving Los Angeles on Wednesday and San Francisco on Saturday. The trip leaving Los Angeles provides for a departure at 8 a.m., lunch at Santa Barbara, dinner and overnight stop at Paso Robles, leaving Paso Robles at 7 a.m., lunch at Del Monte hotel, thence to Big Trees, near Santa Cruz, and arriving at San Francisco at 7 p.m. The trip leaving San Francisco provides for a departure at 7.30 a.m. to the Big Trees near Santa Cruz, lunch at the Del Monte hotel, dinner

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and overnight stop at Paso Robles, leaving Paso Robles at 7.30 a.m., lunch at Santa Barbara and arrival at Los Angeles at 7 p.m. The equipment proposed to be used is Fageol Safety coaches of 21-passenger capacity with individual chairs and enclosed baggage compartments.

Applicant relies as justification for the granting of the application upon the following alleged facts: that since the inauguration of the three-day tour heretofore authorized by the Commission many requests have been received for the establishment of a two-day all paid tour; that many tourists arriving in California on round-the-world cruises, and otherwise, desire the service now afforded by applicant on its three-day tour, but by reason of limited time are not able to take the three-day trip; that tourist agencies and the public generally have requested the establishment of the two-day tour; and that the proposed service will be personally conducted and will include operation over the seventeen-mile drive at Monterey and a tour in and about Santa Barbara, together with stops at points of interest along the route.

Robert J. Marquard, district passenger agent of applicant, testified that he had representatives who sold tickets for applicant's tours in the Stewart, St. Francis, Plaza, Bellevue and Whitcomb hotels in San Francisco and such representatives had reported requests for two-day trips to Los Angeles, inquiries averaging two per week.

Elmer M. Willson, employed by the Tanner Motor Tours, testified that he sold tickets for the three-day tour now operated by applicant; that he had made 97 round trips on the three-day tour; that he had heard inquiries for the trip to be accomplished in less than three days; that more passengers originating on round-the-world steamers would use the proposed service than the present three-day tour for the reason that the extra time could be used by the tourist in local sightseeing in Los Angeles or San Francisco and that business was lost on the three-day schedule by reason of the limited time of tourists due to close sailing schedules of their steamers. The witness estimated that three-quarters of the patrons of the three-day trip would have used the proposed two-day trip if it had been available. At present many tourist patrons who would use the two-day trip make up private parties and engage limousine service at a considerable expense.

Dupont Coleman, assistant manager of the Fairmont and Whitcomb hotels, San Francisco, testified that the hotels with which he was connected handled a considerable amount of steamship patronage from round-the-world tours, that he knew of frequent inquiry for two-day service from such tourists and other guests of his hotels. Witness was of the opinion that the proposed service would prove of advantage to tourists and that many persons now using the three-day service would prefer and use the contemplated service.

C. L. Christianson, assistant Pacific coast manager of the Panama-

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Pacific Steamship Lines, testified as to the tourist travel destined to San Francisco from intercoastal points. His company had a joint schedule with the applicant as regards the three-day tour during the summer season of 1925. Witness had personally met a large majority of the passengers arriving by his company's steamers and had heard inquiries for a shorter trip than the three-day trip which was available.

Four witnesses, employed by a sightseeing company in San Francisco, testified regarding inquiries received from the public for motor transportation to Los Angeles. One of these witnesses had averaged three to four inquiries per week and two had averaged from four to five inquiries per day. All these witnesses stated that frequently the three-day trip operated by applicant consumed more time than was available for prospective patrons and that many who had patronized the three-day trip would have taken the two-day trip if it had been available. It would appear from the testimony of these witnesses, who come in close daily contact with the tourists, that at least half of the patrons secured for the three-day trip would prefer the shorter trip and that many who now object to the three-day tour, by reason of their limited time, would patronize the proposed two-day tour.

R. C. Smith, president of applicant corporation, testified as to investigation made under his direction and promotion work with eastern tourist agencies, steamship and railroad companies; that in connection with such investigation it had developed that there was a demand for a two-day tour on the basis that the three-day tour consumed more time than could be allowed in the preparation of the average tourist's itinerary; that requests for the two-day tour have been made by representative tourist agencies throughout the country; and that the company now owns four parlor cars, fully paid for, and has the financial ability to secure other equipment if the necessity so demands.

Witnesses further testified regarding the losses sustained in the development of the present three-day tour, same having necessitated considerable pioneering, solicitation and advertisement in its establishment; and that the volume of business was now increasing and that the business was now profitable.

The granting of the application is protested by California Transit Company, Los Angeles Steamship Company, Pickwick Stages System, Motor Transit Company and Southern Pacific Company.

Warren E. Libby, secretary of Pickwick Stages System, testified that his company was operating seven round-trip schedules daily between San Francisco and Los Angeles, stop-over privileges being available at San Jose, Salinas, Paso Robles, San Luis Obispo and Santa Barbara, enabling passengers to make the journey in a continuous trip or to extend same into a two, three or any number of days up to ninety. This witness described the equipment used, the majority of which is

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fitted with individual chair seats, and outlined the ability of his company to care for all business offering. Although his company does not itself serve all points proposed by applicant, the service is available by the use of connecting lines with which his company has through ticketing arrangements.

T. M. Cole, assistant general passenger agent of protestant Los Angeles Steamship Company, testified that his company provided four round trips weekly between Los Angeles and San Francisco, the service being fairly comparable with an all-paid tour in that berth and meals were included in the cost of tickets.

Protestant Southern Pacific Company introduced as exhibits its schedules and rates, there being nine round trips available by such route between San Francisco and Los Angeles.

After full consideration of the record herein, we are of the opinion that public convenience and necessity require the service as proposed by applicant, including as it does an all-paid tour within a period of two days. The record shows a substantial demand for the service by tourist agencies and that the present three-day tour requires more time than many tourists and vacationists have available for trips through an attractive portion of California, especially when such tourists are on long trips, either transcontinental or round-the-world. Existing transportation companies, protestants herein, have no comparable substitute service and a sufficient affirmative showing has been made by applicant to justify the granting of the application.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusions as appearing in the opinion which precedes this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by California Parlor Car Tours Company, a corporation, of an automobile stage service as a common carrier of passengers and baggage between San Francisco and Los Angeles, via the Coast Route, such operations being for through passengers only and on the basis of an all-paid tour which shall include meals and hotel accommodations en route; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted to California Parlor Car Tours Company, a corporation, for the operation of an automobile stage line as a common carrier of passengers and baggage over the route as described in the foregoing declaration, and subject to the following conditions:

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1. Service under the certificate herein granted shall be confined solely to the transportation of passengers and their baggage between the termini of San Francisco and Los Angeles, no service whatsoever to be rendered to or from any intermediate point or stopovers of any kind permitted.

2. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

3. Applicant shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed thirty days from the date hereof.

4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this thirteenth day of January, 1927.

DECISION No. 17905.

IN THE MATTER OF THE APPLICATION OF WHITTIER WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE REFUNDING PROMISSORY NOTES AND TO ISSUE ADDITIONAL PROMISSORY NOTES.

Application No. 13353.

Decided January 13, 1927.

SECURITIES—PROMISSORY NOTES—TO ISSUE.—Whitter Water Company authorized to issue $86,500 of three-year 6 per cent promissory notes for the purpose of refunding outstanding notes, and financing additions and betterments.

James S. Bennett, by *L. W. Meyers*, for Applicant.

BY THE COMMISSION.

OPINION.

Whittier Water Company asks permission to issue, in the aggregate, $86,500 of three-year 6 per cent notes, secured by trust indenture or trust deed, for the purpose of refunding outstanding indebtedness and of paying for additions, betterments and improvements. It further

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asks permission to issue its notes, if it so desires, for a term of less than three years and to issue further notes in renewal thereof, provided that the combined terms of the notes and the renewals shall not exceed a period of three years from the date of the Commission's order.

Whittier Water Company has an authorized capital stock of $200,000, divided into 4000 shares of the par value of $50 each, all common, all of which is outstanding. Its bonded indebtedness, as of October 31, 1926, consists of $112,500 of first mortgage 6 per cent serial bonds due on or before July 1, 1937, and $70,000 of three-year 6 per cent trust notes due September 14, 1925. Other indebtedness consists of $11,494.62 of accounts payable and $3,747.63 of interest and taxes accrued. Its assets and liabilities, as of October 31, 1926, are reported as follows:

Assets.

Fixed capital	$494,180 45
Cash	6,392 04
Notes receivable	265 00
Accounts receivable	14,335 89
Investments	17,728 13
Materials and supplies	773 47
Prepaid insurance	415 26
Suspense	108 55
Construction work in progress	1,018 23
Total assets	$535,217 02

Liabilities.

Capital stock	$200,000 00
Bonds	112,500 00
Trust notes	70,000 00
Accounts payable	11,494 62
Accruals	3,747 63
Reserve for depreciation	154,622 64
Corporate deficit	17,147 87
Total liabilities	$535,217 02

The $70,000 of trust notes were issued under authority granted by the Commission by Decision No. 10403, dated May 3, 1922, and were used to provide funds to pay indebtedness of $64,000 then outstanding, and to maintain and improve facilities and service. These notes are now past due and applicant proposes to refund them through the use of part of the $70,000 of the notes applied for in this proceeding.

The company proposes to use the remaining $16,500 of notes covered by this application to pay the cost of reconstructing a portion of its main transmission line and to augment its water supply. It reports actual or estimated expenditures for these purposes as follows:

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Transmission line—		
Syphons and culverts	$1,500 00	
Strengthening and relining by cement 800 feet of the old Whittier ditch	2,000 00	
Replacing 450 feet of main line by the installation of 450 feet of 30-inch steel dipped and wrapped steel pipe	3,000 00	
		$6,500 00
New well and new equipment		10,000 00
Total		$16,500 00

It appears that the company's main transmission line, which carries water from the sources of supply on the Bassett and Bartole water lands, runs along the state highway in the vicinity and through the city of Whittier, and that recently the State Highway Commission has let a contract for the paving of a portion of the highway which requires the reconstruction work, outlined above, on applicant's transmission line before the pavement is laid. As to the expenditures of $10,000 for the new well and new equipment, applicant reports that in the past it derived approximately 250 inches of water from its Bassett water bearing lands, but that in the last year the water receded so far in the wells that it was unable to produce more than one-half of the supply, making a new source urgently required to meet the demand. Applicant used approximately $10,000 from its current funds to dig a new well and equip the same. This money is, according to the record herein, needed by the company to meet its ordinary expenses.

The company asks permission to execute a trust indenture or trust deed to secure the payment of the $86,500 of notes substantially in the same form as that now securing the payment of the $70,000 of notes outstanding. The execution of the instrument was authorized by the Commission by Decision No. 10990, dated September 16, 1922.

ORDER.

Whittier Water Company having applied to the Railroad Commission for authority to execute a mortgage and to issue notes, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that the application should be granted as herein provided, and that the issue of the notes is reasonably required for the purposes specified herein;

It is hereby ordered, that Whittier Water Company be and it hereby is authorized to execute a trust indenture or trust deed substantially in the same form as the instrument authorized to be executed by

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Decision No. 10990, dated September 16, 1922, and to issue at not less than their face value $86,500 of promissory notes, bearing interest at not exceeding 6 per cent per annum and payable on or before three years after date, for the purpose of paying or refunding the $70,000 of trust notes now outstanding and of financing the cost of additions and improvements of $16,500 to which reference is made in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. Applicant may, if it so desires, issue the notes herein authorized for a term of less than three years and renew them from time to time, provided that the combined terms of the notes originally issued and of those issued in renewal do not exceed a period of three years from the date of this order.

2. The authority herein granted to execute a trust indenture or trust deed is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said trust indenture or trust deed as to such other legal requirements to which said trust indenture or trust deed may be subject.

3. Within thirty days after the execution of said trust indenture or trust deed applicant shall file a certified copy thereof with the Railroad Commission.

4. The authority herein granted will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

5. Applicant shall keep such record of the issue of the notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this thirteenth day of January, 1927.

DECISION NO. 17906.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER FIVE MILLION DOLLARS PAR VALUE OF ITS FIRST PREFERRED SIX PER CENT STOCK, AND TO USE THE PROCEEDS FOR THE PURPOSES SET FORTH HEREIN.

Application No. 13440.

Decided January 13, 1927.

SECURITIES—PREFERRED STOCK—TO ISSUE.—Application granted.

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Charles P. Cutten, for Applicant.

BY THE COMMISSION.

OPINION.

In the above entitled matter Pacific Gas and Electric Company asks the Railroad Commission to make an order authorizing it to issue and sell, at not less than 98 per cent of par value, $5,000,000 of its 6 per cent cumulative first preferred stock.

Pacific Gas and Electric Company has an authorized capital stock of $160,000,000, consisting of 6,400,000 shares of the par value of $25 each, divided equally into common stock and 6 per cent cumulative preferred stock. As of November 30, 1926, it reports its capital stock outstanding and subscribed for as follows:

Common stock—		
Issued and outstanding	$68,651,348 33	
Less: held by subsidiaries	15,848,433 33	
		$52,802,915 00
Subscribed but not fully paid or issued		62,200 00
Total		$52,865,115 00
First preferred stock—		
Issued and outstanding		$61,853,631 91
Subscribed but not fully paid or issued		1,013,000 00
Total		$62,866,631 91
Total		$115,731,746 91

In making the present request to issue additional preferred stock the company reports the necessity of making further provision for the payment of the construction expenditures of $22,987,541.02 heretofore reported to the Commission in Application No. 13291. These expenditures include the unreimbursed amounts at August 31, 1926, of Pacific Gas and Electric Company and of Mount Shasta Power Corporation, amounting to $6,631,162.88, the unexpended balances of capital expenditures authorized at August 31, 1926, of Pacific Gas and Electric Company, amounting to $7,230,169.53, the unexpended balances of capital expenditures authorized at August 31, 1926, of Mount Shasta Power Corporation, amounting to $1,126,208.61, and the estimated cost of new construction for the balance of 1926 and 1927, amounting to $8,000,000. The expenditures are described in detail in Exhibits "B," "C," "D" and "E" attached to Application No. 13291, in which reference may be made.

The four items aggregate $22,987,541.02. Heretofore the Commission has authorized the company, in order to meet in part these amounts, to use unexpended proceeds amounting to $605,281.73 on hand on August 31, 1926, received from the sale of stock and bonds, the proceeds from the sale of $2,957,100 of preferred stock theretofore authorized to be issued but unsold on that date, the proceeds to be received from

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the sale at par of $2,000,000 of preferred and common stock authorized to be issued by Decision No. 17801, and the proceeds from the sale at par of $5,287,000 of common stock authorized to be issued by Decision No. 17843. Except as to these amounts no provision has been made to finance the expenditures of $22,987,541.02. It occurs to us that the company should be permitted to issue $5,000,000 of additional preferred stock to pay in part the actual or estimated construction expenditures of $22,987,541.02. While we are willing to authorize the issue of this stock, such authorization should not be construed as an approval of the total reported expenditures.

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue and sell $5,000,000 of first preferred stock, and the Railroad Commission being of the opinion that this is a matter in which a public hearing is not necessary, and that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Pacific Gas and Electric Company be and it hereby is authorized to issue and sell, on or before December 31, 1927, at not less than 98 per cent of par value, $5,000,000 par value of its first preferred stock and to use the proceeds to reimburse its treasury in part on account of capital expenditures of $6,631,162.88 made prior to August 31, 1926, and/or to finance in part such cost of the extensions, additions, betterments and improvements to its facilities and to those of Mount Shasta Power Corporation, described in Exhibits "B," "C," "D" and "E" filed in Application No. 13291, as is properly chargeable to fixed capital accounts under the uniform systems of accounts prescribed or adopted by this Commission.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof, and further, that applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this thirteenth day of January, 1927.

DECISION NO. 17907.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE REASONABLENESS OF THE RATES,

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CHARGES, PRACTICES, CONTRACTS, RULES, REGULATIONS, SCHEDULES AND CONDITIONS OF SERVICE, OR ANY OF THEM, OF E. L. McCAPES, OPERATING A PUBLIC UTILITY WATER SYSTEM IN THE TOWN OF RAYMOND, MADERA COUNTY, CALIFORNIA.

Case No. 2277.

Decided January 14, 1927.

BY THE COMMISSION.

SECOND SUPPLEMENTAL OPINION AND JUDGMENT.

This Commission, by its Decision No. 17696, rendered in the above entitled Case No. 2277, under date of December 2, 1926, adjudged and decreed E. L. McCapes to be guilty of a wilful contempt of this Commission in disobeying its order made in said matter on the first day of October, 1926 (Railroad Commission Decision No. 17408), by failing and refusing to reestablish the public utility domestic water service to T. M. Nicholas, one of his consumers on his water system in the town of Raymond, Madera County, California.

In said Decision No. 17696 it was ordered and decreed that for his contempt of the Railroad Commission, as aforesaid, the said McCapes be fined by a fine of twenty dollars ($20) to be paid by him to the secretary of the Railroad Commission of the State of California within ten (10) days from the date of said decision, and in default of payment thereof that he be committed to the county jail of the county of Madera, State of California, until such fine be paid at the rate of one day's imprisonment for each two dollars ($2) of said fine.

Upon the application of said E. L. McCapes, the Commission modified its Decision No. 17696 rendered in the above entitled case by the issuance of its supplemental opinion and judgment (Railroad Commission Decision No. 17753, dated the thirteenth day of December, 1926) wherein E. L. McCapes was granted an extension of time to and including January 12, 1927, in which to pay the fine imposed upon him by Decision No. 17696.

It appears from the official records of the Commission that E. L. McCapes has failed and neglected to comply with the order contained in Railroad Decision No. 17696 as modified by Decision No. 17753 in that he has failed to pay to the secretary of the Railroad Commission of the State of California the sum of twenty dollars ($20) within the time prescribed in the orders contained in said decisions, or at any other time, or at all. It follows, therefore, that E. L. McCapes should be committed to the county jail of the county of Madera, State of California, until such fine is paid at the rate of one day's imprisonment for each two dollars ($2) of said fine, and the following order will so provide.

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SUPPLEMENTAL ORDER.

The Railroad Commission by its Decisions Nos. 17696 and 17753 rendered in the above entitled matter having ordered, adjudged and decreed that E. L. McCapes pay to the secretary of the Railroad Commission of the State of California the sum of twenty dollars ($20) on or before January 12, 1927, and having provided that in default of payment thereof that he be committed to the county jail of the county of Madera, State of California, until such fine be paid at the rate of one day's imprisonment for each two dollars ($2) of said fine, and E. L. McCapes having failed and neglected to pay the amount of said fine to the secretary of the Railroad Commission of the State of California on or before January 12, 1927, or at any other time, or at all;

It is hereby ordered, adjudged and decreed, that E. L. McCapes be committed to the county jail of the county of Madera, State of California, until the fine of twenty dollars ($20) above referred to is paid at the rate of one day's imprisonment for each two dollars ($2) of said fine.

It is hereby further ordered, that the secretary of the Railroad Commission deliver to the sheriff of the county of Madera, State of California, certified copies of Railroad Commission Decisions Nos. 17696, 17753 and of this decision (No. 17907) and that the said sheriff proceed at once to enforce the order herein above contained.

Except as modified herein Railroad Commission Decisions Nos. 17696 and 17753 shall remain in full force and effect.

Dated at San Francisco, California, this fourteenth day of January, 1927.

DECISION No. 17911.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER ITS PREFERRED AND COMMON CAPITAL STOCK TO THE AMOUNT, IN THE MANNER AND FOR THE PURPOSES SET FORTH HEREIN.

Application No. 13350.

Decided January 17, 1927.

BY THE COMMISSION.

FIRST SUPPLEMENTAL OPINION AND ORDER.

The Commission by Decision No. 17801, dated December 23, 1926, authorized the Pacific Gas and Electric Company to issue, sell and deliver on or before December 31, 1930, at not less than the par value thereof, $1,000,000 of its 6 per cent cumulative preferred stock and

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$1,000,000 of its common stock. The Commission in the opinion of said decision recites that it is the intention of the company to offer the stock to its employees, and that the testimony submitted indicates that under the company's plan the employees will have the right to cancel their subscriptions, in which case the total amounts paid in will be returned with no interest, however, for the first twelve installments, and with interest at the rate of 3 per cent per annum on the succeeding twelve installments and at the rate of 4 per cent on all the remaining installments. Recently Pacific Gas and Electric Company has advised the Commission that it intends to modify the conditions under which it will offer stock to its employees, so that subscriptions may be canceled only with the consent of the company, and that if it does consent to the cancellation of the subscription, all installments paid in will be refunded with interest at the rate of 6 per cent per annum; and further, when for any reason a subscriber ceases to be an employee of the company before payments are completed, his subscriptions thereupon will be canceled and the total amount paid in will be refunded with interest at the rate of 6 per cent per annum. A copy of the proposed employees' revised stock offering plan was filed in this proceeding on January 11th. The Commission has no objection to the proposed change and believes that the order in said Decision No. 17801 should be modified accordingly; therefore,

It is hereby ordered, that the order in Decision No. 17801, dated December 23, 1926, be and it is hereby modified so as to permit Pacific Gas and Electric Company to offer to its employees the stock authorized to be issued, sold and delivered by said order under terms and conditions substantially the same as outlined in the employees' stock offering plan filed in this proceeding on January 11, 1927.

It is hereby further ordered, that the order in Decision No. 17801 dated December 23, 1926, shall remain in full force and effect, except as modified by this first supplemental opinion and order.

Dated at San Francisco, California, this seventeenth day of January, 1927.

Decision No. 17912.

IN THE MATTER OF THE APPLICATION OF THE SAN FRANCISCO-SIERRA MOTOR COACH LINES, A COPARTNERSHIP, COMPOSED OF H. A. GREEN, GEORGE W. GERHARD AND A. L. LUBFIN FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR BUS PASSENGER SERVICE BETWEEN SAN FRANCISCO AND CARL INN AND SAN FRANCISCO RECREATION PARK; AND AUTOMOTIVE FREIGHT SERVICE BETWEEN CHINESE AND MATHER AND PEACH GROWERS AND INTERMEDIATE POINTS.

Application No. 10684.

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IN THE MATTER OF THE APPLICATION OF R. R. YOUNG, DOING BUSINESS UNDER THE FICTITIOUS NAME OF YOSEMITE TRANSIT, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR BUS PASSENGER SERVICE BETWEEN SAN FRANCISCO AND CARL INN AND SAN FRANCISCO RECREATION CAMP, AND FOR SUCH OTHER AND FURTHER SERVICE AS THE HONORABLE COMMISSION MAY DEEM NECESSARY.

Application No. 10913.

IN THE MATTER OF THE APPLICATION OF CONTRA COSTA TRANSIT COMPANY, A COPARTNERSHIP CONSISTING OF E. H. WARD AND H. J. SUTHERLAND, AND OF MARTINEZ BAY POINT STAGE COMPANY, A CALIFORNIA CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO BE ISSUED TO SAID COPARTNERSHIP TO OPERATE A PASSENGER AUTOMOBILE STAGE LINE BETWEEN MARTINEZ AND BYRON, CALIFORNIA, AND INTERMEDIATE POINTS, AND FOR AUTHORITY OF SAID COPARTNERSHIP TO ACQUIRE THE EXISTING RIGHT OF MARTINEZ-BAY POINT STAGE COMPANY TO OPERATE BETWEEN MARTINEZ AND BAY POINT.

Application No. 10958.

IN THE MATTER OF THE APPLICATION OF COLBERG AND COLBERG, DOING BUSINESS UNDER THE NAME OF CENTRAL TRANSIT COMPANY, FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER AND EXPRESS SERVICE BETWEEN STOCKTON AND TERMINUS AND STOCKTON AND BRENTWOOD AND OTHER POINTS.

Application No. 10734.

IN THE MATTER OF THE APPLICATION OF OAKLAND-TUOLUMNE STAGE LINE, A CORPORATION, FOR AN EXTENSION OF ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CARL INN.

Application No. 10808.

Decided January 18, 1927.

CERTIFICATE—AUTO STAGES—TO OPERATE—AUTO TRUCKS.—Application of San Francisco-Sierra Motor Coach Lines denied; application of R. R. Young (Yosemite Transit) denied; application of California Transit Company (successor to R. R. Young) granted to extend service from Carl Inn to Peach Growers, also to extend passenger service between Manteca and Escalon, and freight service between Chinese station, Carl Inn, Mather and intermediate points, as an extension of present service between Groveland and Carl Inn and Mather; certificate granted to E. H. Ward and H. J. Sutherland (Contra Costa Transit Company) to operate passenger and baggage service between Byron and Martinez, and that said service be operated in conjunction with the operations of Martinez-Bay Point Stage Company, which is authorized to transfer same to said Ward and Sutherland; certificate granted to William C. Colberg and Henry J. Colberg (Central Transit Company) to operate auto stage service between Stockton and Brentwood and intermediate points; application of Oakland-Tuolumne Stage Line dismissed without prejudice.

Chas. A. Beck, for San Francisco-Sierra Motor Coach Lines.
Devlin and Brookman, by *Douglas Brookman*, for Oakland-Tuolumne Stage Line.
John B. Curtin and *Lafayette J. Smallpage*, for Yosemite Transit and Tuolumne County Chamber of Commerce.
Jesse H. Steinhart, for San Francisco-Sacramento Railroad Company, Contra Costa Transit Company and Martinez-Bay Point Stage Company.

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Gwyn H. Baker, for Ward's Auto Stage, Contra Costa Transit Company and Martinez-Bay Point Stage Company.
Earl A. Bagby and *Harry A. Encell*, for California Transit Company.
Sanborn and Rochl and DeLancey C. Smith, by *Arthur B. Rochl*, for Beverly Gibson.
Chickering and Gregory, by *W. C. Fox*, for Colberg and Colberg.
A. B. Tinning, District Attorney, for Contra Costa County.
Vogelsang and Brown, by *I. I. Brown*, for Yosemite National Park Company and Yosemite Transportation System.
D. J. Hall, City Attorney, for City of Richmond.
H. A. Johnston, for Richmond Chamber of Commerce.
F. W. Mielke, for Southern Pacific Company.
H. A. Butchart, for Sierra Railway Company.
E. T. Lucey, for The Atchison, Topeka and Santa Fe Railway Company.
C. J. Auger, for San Francisco Playground Commission.

BY THE COMMISSION.

OPINION.

In application No. 10684, as amended, H. A. Green, George W. Gerhard and A. L. Lubfin, copartners doing business under the firm name of San Francisco-Sierra Motor Coach Lines, have petitioned for a certificate of public convenience and necessity authorizing the operation of an automobile stage service for the transportation of passengers as a common carrier between San Francisco, Richmond, Stockton, Carl Inn and San Francisco Recreation Camp, Mather and Peach Growers, including intermediate points; they also seek authority for the transportation of express between Brentwood, Stockton, Buck Meadows, Carl Inn, Mather, Peach Growers and intermediate points; and in addition they seek permission to operate as a common carrier of freight from Chinese, where connection will be made with the Sierra Railway Company to Carl Inn, Mather, Peach Growers and intermediate points. Applicants propose to use for this service passenger coaches so constructed as to afford comfortable and safe transportation. Their proposed rates, fares and time schedules accompanied the application and were amended during the course of the hearing.

By his original application (No. 10913) R. R. Young, doing business under the fictitious name of Yosemite Transit, seeks a certificate of public convenience and necessity authorizing the establishment of an automobile stage service for the transportation of passengers and baggage between Carl Inn and Peach Growers as an extension of his existing service between Groveland and Carl Inn. By his first amended application, applicant alleges that he conducts a stage service between Stockton and Groveland throughout the year and from Groveland to Carl Inn whenever the roads are passable, serving also the San Francisco Recreation Camp, and seeks a certificate authorizing him to operate an automobile stage service from San Francisco to San Francisco Recreation Camp, as an extension of his present service, via San Pablo, Pinole, through Franklin Canyon to Martinez; thence via Bay Point, Pittsburg, Antioch, Brentwood and over the Borden highway to Stockton, from which point the service will be conducted over

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his present route. He also requested authority to conduct a motor truck freight service between Chinese station, Carl Inn and Mather. By his second amended application, applicant alleges that he conducts a passenger stage service between Stockton and Escalon over the Mariposa route and thence to Oakdale, Groveland and Carl Inn, and requests permission to extend service from Escalon to Manteca over the Manteca-Escalon road, thus establishing a more direct and less circuitous route from points on applicant's line to points reached by the California Transit Company, with which applicant will connect at Manteca. The proposed rates and time schedules and a description of the proposed equipment accompanied these applications.

In connection with this application it may be said that subsequent to the submission of this case the applicant, R. R. Young, transferred to California Transit Company all of his operative rights, including inchoate rights embraced in proceedings pending and undetermined, pursuant to this Commission's Decision No. 16012, on Application No. 12524, dated February 16, 1926.

In Application No. 10958 the applicants, E. H. Ward and H. J. Sutherland, copartners doing business under the fictitious name of Contra Costa Transit Company, seek permission to acquire from the applicant Martinez-Bay Point Stage Company, a corporation, its operative right for conducting an automobile passenger stage service between Martinez and Bay Point held under certificate of public convenience and necessity previously granted by this Commission, and in conjunction therewith Contra Costa Transit Company requests a certificate of public convenience and necessity for the operation of an automobile passenger stage service from Martinez to Byron and intermediate points, including Bay Point, Pittsburg, Antioch, Oakley and Brentwood, applicants proposing to establish a through service over the combined routes. It is alleged that applicant H. J. Sutherland is the secretary of the San Francisco-Sacramento Railroad Company and president of the Martinez-Bay Point Stage Company and that in this application he is acting as representative of the railroad company. It further appears that the railroad owns all of the capital stock of Martinez and Bay Point Stage Company. The purpose of the application is to establish a stage service in connection with that of the railroad, which operates an electric line between Bay Point and Pittsburg, and San Francisco and Oakland. Accompanying the application are the proposed fares and time schedules. Applicants allege that adequate equipment will be provided to furnish this service.

In Application No. 10734, as amended, William C. Colberg and Henry C. Colberg, as copartners doing business under the firm name of Central Transit Company, seek a certificate of public convenience and necessity authorizing the establishment of an automobile stage

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service for the transportation of passengers and express (1) between Stockton and Terminus, and (2) between Stockton and Brentwood, as an extension of the service now conducted by applicants between Stockton and Byron, pursuant to this Commission's Decision No. 13928, on Application No. 10268, dated August 19, 1924. Since applicants' operative right under this decision is restricted to passenger service between Stockton and Byron and intermediate points, applicants seek authority to establish an express service coextensive with their passenger service. Accompanying the application are the proposed tariff of fares, time schedule and a description of the equipment to be used.

There being no objection to that portion of the application requesting the establishment of a stage line between Stockton and Terminus, the same was granted by Decision No. 15270, leaving only for consideration at the present time the proposed service between Stockton and Brentwood.

In Application No. 10808, as amended, the Oakland-Tuolumne Stage Line, a corporation, sought an extension of its service to Carl Inn, so as to permit the transportation of passengers between Berkeley and Oakland on the one hand, and between the Oakland and Berkeley recreation camps and Carl Inn on the other hand, no intermediate service being proposed. During the course of the hearing applicant withdrew its application and requested a dismissal of the proceeding.

Public hearings in these matters were held before Examiner Austin at San Francisco, when they were consolidated for hearing and decision, evidence was offered, the matters were orally argued and submitted upon briefs, which have since been filed, and are now ready for decision.

In discussing the evidence, we shall consider each application separately.

Application No. 10684, San Francisco-Sierra Motor Lines.

Applicants propose to conduct a passenger and baggage service from San Francisco by automobile ferry to Richmond and thence via Martinez, Bay Point, Pittsburg, Antioch, Oakley, Brentwood, Byron, Byron Hot Springs and Holt to Stockton, thence easterly through Collegeville, Escalon, Riverbank, Oakdale, Yosemite Junction, Chinese, Groveland, Buck Meadows and Carl Inn, terminating at Mather, otherwise known as San Francisco Recreation Camp. In addition a freight service will be maintained from a connection with the Sierra Railway at Chinese through Buck Meadows, Carl Inn and Peach Growers to Mather.

The equipment to be used consists of six coaches of the six-wheeled type, each having a capacity of from 25 to 32 passengers, and three 10-ton trucks. Depots will be established at San Francisco, Richmond and Stockton and possibly at other points.

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In the course of their investigations, two of the applicants, Mr. Green and Mr. Gerhard, and their traffic manager, E. S. Lubfin, have traversed the route interviewing various persons and making observations of road conditions. They assert that as a result of this survey they found a need for additional passenger service between Richmond and Stockton and intermediate points, the present service, both rail and stage, being inadequate; also beyond Yosemite Junction additional service is needed, but not between that point and Stockton. In connection with the proposed freight service, designed to replace that formerly supplied by the Hetch Hetchy Railroad, which has withdrawn from service as a common carrier, applicants state they have found a demand for hauling lumber from the Peach Growers mill, and the transportation of supplies to points along the route. Three witnesses called by applicants testified such a service would be convenient and would supply their needs. Two of the applicants and their traffic manager testified that a through service to the San Francisco recreation camp at Mather, such as that proposed, was essential to avoid the inconvenient changes en route now required.

As a result of discussions and conversations had with persons along the route, applicants estimate that the line will handle daily an average of 320 through and local passengers, but they appear to have made no careful survey of the capacity or adequacy of the existing transportation facilities.

Several witnesses were called in support of the application. George F. Bartlett, proprietor of the resort at Buck Meadows, stated they needed transportation service four months in the year, but that in his judgment no additional service was needed. He estimated that between Groveland and Buck Meadows there were not over three passengers per day each way. The president of the Escalon Chamber of Commerce testified there was need for a direct service to San Francisco which would not pass through Stockton, the French Camp road being preferable to the Collegeville road. However, it appears that applicants propose to operate over the latter route. I. L. Borden, owner of a ranch of 7800 acres on Victoria Island where from 100 to 250 men are employed, stated that a service such as that proposed by applicants would be convenient for the transportation of laborers who are now brought to the ranch by private conveyances from Stockton and Oakland. He emphasized the need for a through service to Oakland, which in his opinion was the shopping center, and stated that a connection at Pittsburg with the electric line would be adequate. He suggested the need for frequent schedules, stating that four a day were essential. The vice president of the East Contra Costa Chamber of Commerce testified that the present rail service from Brentwood to San Francisco was inconvenient and that there was now no stage

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service west of Brentwood. He did not approve of stage connections with the electric line at Pittsburg, objecting to the changes en route. In his judgment the travel to Richmond was very small, most passengers being destined either to San Francisco or Oakland. Although the service from Brentwood to Stockton is satisfactory, he desires a through service between Stockton and San Francisco. Other witnesses testified on behalf of applicants, some of whom had very little knowledge of the situation, their opinions being based upon a few isolated experiences, while others with greater familiarity with the subject confined their testimony to small portions of the proposed route. Resolutions adopted by various civic organizations and municipal councils were introduced in evidence, including the San Francisco Labor Council, the San Francisco Central Council of Civic Clubs and the Escalon Chamber of Commerce. Such a resolution adopted by the Richmond city council was received in evidence, but was later rescinded by the council. Applicants also offered a similar resolution, adopted by the San Francisco Board of supervisors, but it appears from the testimony of Supervisor E. E. Schmitz that the board was interested primarily in adequate and dependable service to the recreation camp and not in any individual operator.

According to the testimony of E. S. Lubfin, applicants' traffic manager, concurred in substantially by applicants Gerhard and Green, the investment in equipment necessary to commence operations will be approximately $108,000, of which $84,000 covers passenger equipment and $24,000 covers freight equipment, and Mr. Green estimated that about $120,000 will be needed to start the enterprise. He stated he had available from $80,000 to $85,000, of which he would advance $40,000 personally and would obtain the rest from other persons accustomed to follow his judgment regarding financial investments. However, he declined to reveal the names of such persons, stating that for the most part they were army officers who could not with propriety make public any private investments. E. S. Lubfin, the brother of applicant A. L. Lubfin (who did not take the stand), stated that he and his brother would personally invest $5,000 and could raise an additional $30,000 from associates whose names he refused to reveal. Mr. Gerhard said he could invest from $5,000 to $12,000, to be raised upon certain collateral securities which he owned. Should these funds prove insufficient, applicants plan to form a corporation and place its stock upon the market. It thus appears that the applicants themselves have available for investment in this undertaking about $67,000, and intend to obtain an additional $75,000 from persons whose names they decline to reveal to the Commission. The sales manager of the Moreland Motor Truck Company estimated that busses of the type proposed would cost around $10,000 each, and stated that this equipment would be sold to applicants under

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conditional sales contracts requiring a cash payment of one-third of the purchase price, the balance to be paid in monthly installments extending over a period of 13 months, title in the meantime being retained by the seller. Assuming that the applicants' original investment at the very minimum will be $95,000, covering seven busses and three trucks, a cash outlay of about $35,000 will be required.

Applicants have estimated that over the entire route they will handle a daily average of 320 passengers between all points, yielding a revenue of $574.96, and that their operating costs will not exceed 24 cents per mile upon the valley roads and from 28 to 32 cents per mile in the mountains. Mr. Lubfin stated that the cost of operation would amount to about $250 per day, including taxes and depreciation. The evidence bearing upon this subject is uncertain, the estimates having been changed from time to time, and not clearly showing the elements included in the costs.

Numerous changes were made in applicants' proposed time schedules and tariffs, several amendments being filed throughout the course of the hearing. Even in the final draft, it appears necessary for applicants' stages to operate at excessive speed, in order to maintain the schedules, and extremely close connections are provided at Richmond upon schedules which terminate there and do not go on to San Francisco. It appears extremely doubtful whether the schedules proposed can be maintained with only seven busses, since adequate provision has not been made for stand-by service, and the evidence also shows that if operations are conducted as proposed the drivers will be compelled to work excessively long hours.

The granting of this application was protested by San Francisco-Sacramento Railroad Company, Contra Costa Transit Company, Yosemite National Park Company, Ward's Auto Stage Company, Martinez-Bay Point Stage Company, the county of Contra Costa, Sierra Railway Company, Yosemite Transit, Tuolumne County Chamber of Commerce, California Transit Company, Oakland-Tuolumne Stage Company, Colberg and Colberg, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, and certain Santa Fe employees at Richmond, represented by F. T. Stoddard.

The protestant California Transit Company introduced evidence showing its routes, time schedules, fares and equipment, describing its service and facilities in considerable detail. From a travel study introduced it appears that there is ample space for the accommodation of passengers upon stages between San Francisco and Stockton.

The protestant Yosemite Transit, through its superintendent of transportation, H. A. Lewellen, described the service maintained between Stockton and Carl Inn via Yosemite Junction and Groveland. He stated that the population along the line between Yosemite Junction

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and Carl Inn is decreasing, due to the recent completion of the Hetch Hetchy project, and as a result the revenues derived by protestant from that service have been diminishing. The service to Carl Inn, he testified, has been operated at a loss. J. C. De Farrari of Groveland, for many years Justice of the Peace there, described this territory in considerable detail, corroborating, Mr. Lewellen's testimony that the population was decreasing, although he conceded that this region can be developed to a greater extent for the accommodation of summer campers and vacationists. In his judgment the present service of Yosemite Transit is satisfactory. Both of these witnesses, as well as William T. Hawkins, part owner of the station at Yosemite Junction, described the Big Oak Flat road between Yosemite Junction and Mather, their testimony disclosing that in many places the road is extremely narrow, the grades are steep and that it would be difficult, if not impossible, to safely operate over the road a large passenger coach of the type proposed by applicants.

The protestant Yosemite National Park Company, in addition to other service, conducts a passenger stage line between Yosemite Valley and Carl Inn, Peach Growers and Mather. Its equipment is adequate and the service satisfactory. Upon this route it operates 12-passenger stages, the maximum allowed by the government on mountain roads within the park. It manager, Mr. T. E. Farrow, testified that the local traffic handled was negligible, that protestant has been serving city vacation camps maintained in this vicinity at fares below the cost of transportation and that in his judgment no additional service was required. Exclusive of overhead, the operating costs average 67.5 cents per car mile, which are approximately 20 per cent higher than those of another company operating between Buck Meadows and Carl Inn, not subject to such stringent governmental regulations as the protestant. If we accept the witness' estimate, and his qualifications appear to be established by the record, the operating costs in this mountain territory will not be less than 54 cents per car mile.

Protestant Southern Pacific Company introduced testimony descriptive of its services and rates between San Francisco and Stockton and intermediate points, and the amount of traffic handled. Similar testimony was offered by protestant The Atchison, Topeka and Santa Fe Railway Company, their representative, H. W. Beck, testifying that the inauguration of another through stage service between San Francisco and Stockton would probably result in the curtailment of passenger train service. R. T. Stoddard, testifying on behalf of Santa Fe employees at Richmond, stated that if the train service on the Santa Fe were reduced it would result in loss of employment or seniority rights by railroad employees, many of whom will be obliged to move away

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from Richmond to the detriment of the merchants and business men of that community. He filed several petitions against the granting of this application, containing many signatures.

Protestant San Francisco-Sacramento Railroad Company made a showing of its service and fares between San Francisco and points in Contra Costa County and also locally within the latter county. According to a statement filed by H. A. Mitchell, its vice president and general manager, it now handles between Contra Costa points an average of nine passengers per train. This protestant also submitted a statement showing the passenger service conducted by the existing carriers between San Francisco and Stockton, from which it appears that there are 24 eastbound and 20 westbound schedules available each day by rail and by stage. While a few of these schedules may be eliminated, as being duplications, the evidence shows there are many and frequent schedules available each day between these points.

Protestant Contra Costa County, through the chairman of its board of supervisors, W. J. Buchanan, expressed its disapproval of the operation of stage lines over the county highways, introducing an ordinance prohibiting the operation of stage lines over certain roads, including applicants' proposed route. In the opinion of this witness, who appears to be quite familiar with local conditions, the residents of eastern Contra Costa County points travel more frequently and in greater numbers to San Francisco and Oakland, the shopping centers, than to Richmond, the traffic moving to the latter point being relatively unimportant. However, he believed there is a need for a stage line between Brentwood, Byron and Martinez, the county seat, in order to accommodate travel between these points.

In connection with its Application No. 10913, Yosemite Transit called Miss M. P. Hagan, executive secretary and director of recreation of the San Francisco Playground Commission, and also a member of a committee of three having active charge of the camp at Mather. The camp has a capacity of from 125 to 150 persons. Vacationists visiting the camp are transported to and from that point in large groups at the end of each 13-day period, each group comprising approximately 125 people. Arrangements have been made with the Southern Pacific Company and the Santa Fe, in connection with the Sierra Railway, to handle these passengers to Chinese and thence by the stages of the Yosemite Transit to the camp. Considerable objection was voiced by applicants to this proposed service, it being contended that Yosemite Transit had no certificate to operate this service between the camp and Chinese; the latter, however, asserted that such operations were conducted over a private road for which a certificate was not necessary. Much testimony was introduced concerning the status of this road, but we believe

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it unnecessary to determine this question, since the operations of the stage line, if illegal, should form the subject of a separate complaint.

Application No. 10913, Yosemite Transit.

Mr. Lewellen, superintendent of transportation, described the routes operated, the points served, and the equipment, which consists of 14 cars and two 32-passenger coaches in course of construction. He stated that there was need of a freight service to replace that formerly accorded by the Hetch Hetchy railroad, which has discontinued service as a common carrier. In the course of his investigation the witness has discussed the need for this service with business men and others in the various communities along the route between Chinese and Mather, stating that in his judgment all of the freight could be handled by one 2½-ton truck. Testimony was given relative to the anticipated costs and revenues.

That portion of the application seeking an extension of service from Escalon to Manteca was not protested. In addition to providing Manteca, a city of about 2000, with a direct connection to Escalon, and a more direct service from Oakdale, this cut-off will materially reduce the distance and time in routing through passengers from points on the Yosemite Transit to points on the California Transit lines. Testimony was offered by California Transit Company indicating the convenience to be subserved by the establishment of this route, it appearing that passengers from Carl Inn, if routed via Manteca, can reach San Francisco much earlier than at present. In this connection we shall consider the testimony of Mr. Pierce who emphasized the need for a direct service from Escalon to San Francisco.

With respect to the application of Yosemite Transit to extend its service west from Stockton to San Francisco, over the Borden highway, applicant introduced its proposed tariffs, time schedules and a description of its equipment, stating that five cars can accommodate the traffic between San Francisco and Stockton, passengers changing at the latter point to smaller stages which will be used for mountain operations. An additional investment of about $50,000 will be required to provide this equipment. Of the passengers traveling to Carl Inn, about one-half are local and the remainder destined to Yosemite Valley, the latter being transferred at Carl Inn to the stages of Yosemite National Park Company. Mr. Lewellen stated his investigation of anticipated traffic covered a period of about six weeks, including three trips over the proposed route. He estimated that for profitable operation ten passengers each way must be carried daily between Stockton and San Francisco, and a total of 98 per day handled between all points. Some of this traffic, he conceded, must be diverted from existing lines. This

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witness does not appear to be familiar with the schedules or volume of traffic handled by the existing carriers.

The granting of this application was protested by San Francisco-Sierra Motor Coach Lines, California Transit Company (in so far as it relates to the extension of service from Stockton to San Francisco), the San Francisco-Sacramento Railroad Company, Contra Costa Transit Company, county of Contra Costa, Southern Pacific Company, and Civic League of Improvement Clubs.

We shall not repeat here our discussion of the testimony offered by the protestants in Application No. 10684 which applies equally to the proposed extension of service by this applicant.

Application No. 10958, Contra Costa Transit Co.

Applicants seek authority to conduct a stage service between Byron and Martinez. Contra Costa Transit Co. is a copartnership comprising E. H. Ward and H. J. Sutherland, who is a representative of the San Francisco-Sacramento Railroad. Should this certificate be granted the Martinez-Bay Point Stage Company will transfer to applicants, without consideration, its existing operative rights between Martinez and Bay Point, applicants requesting that such operative rights be merged with the Byron-Martinez right. E. H. Ward will continue individually to operate his present line through the industrial district between Pittsburg and Antioch.

Mr. Ward testified that the purpose of this application was to provide a better service from Byron and Brentwood to Martinez, the county seat, the present train service of the Southern Pacific being inadequate. Since there is no demand for additional service between Martinez and Richmond or Oakland, the service appearing to be adequate, applicants will provide connections at Martinez with stages and trains serving these points. He testified that there was but little direct travel from the eastern portion of the county (including Antioch and points east) to Richmond, the principal demand being for service to Martinez, San Francisco and Oakland. Applicant proposes to connect at Bay Point with the electric trains of San Francisco-Sacramento Railroad Company, thereby providing a direct service to Oakland and San Francisco. Inasmuch as the time of arrival and departure of stages at Bay Point will be the controlling factor in the determination of applicants' schedules, this possibly may interfere with the establishment of close connections with other carriers at Martinez, but it appears from Mr. Colberg's testimony that Central Transit Company will, if necessary, rearrange its schedules so as to provide direct connections at Brentwood with applicants' stages. The traffic will consist largely of laborers and those traveling to the county seat, together

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with a sprinkling of commercial travelers and local passengers. In order to operate the service profitably, it appears that the through business to San Francisco and Oakland is essential, as well as the local traffic.

As a temporary expedient, at the commencement of operations applicants will use two White busses owned by Mr. Ward and now used on his stage service between Antioch and Pittsburg; subsequently these will be replaced by two new White busses to be used exclusively in this service. The Martinez-Bay Point Stage Company has no equipment capable of being utilized in this service. The evidence indicates that applicants have sufficient financial means to conduct this service.

H. A. Mitchell, vice president and general manager of San Francisco-Sacramento Railroad Company, testified that the latter owned all of the capital stock of the Martinez-Bay Point Stage Company, that its operative rights would be leased or transferred without consideration to the applicants, and that the railroad was willing and able to contribute its share of the cost of conducting the service. He corroborated Mr. Ward's testimony as to the need for service to Martinez, and the adequacy of the service west of Martinez. Applicants called L. Richardson of the Southern Pacific Company and H. W. Beck of the Santa Fe, both of whom described the volume of traffic moving from eastern Contra Costa points to Richmond, on the one hand, and to Oakland and San Francisco, on the other hand, their testimony indicating that very few passengers, relatively, were carried to Richmond in comparison with those moving to the other two points.

In connection with this application we shall consider the testimony of I. L. Borden, who expressed a need for a through service to Oakland, stating that a connection at Pittsburg would be adequate.

The granting of this application was protested by San Francisco-Sierra Motor Coach Lines, Colberg and Colberg, county of Contra Costa, California Transit Company (as successor to the Western Motor Transport Co. and the Star Auto Stage Association), and Southern Pacific Co. One of the county supervisors, however, stated there was a need for this service, which the county did not oppose; Colberg and Colberg offered to establish connections with applicants at Brentwood; Southern Pacific Co. offered testimony as to its service; and California Transit Company relied upon certain pending applications for authority to conduct a stage service in this territory.

Application No. 10734, Colberg and Colberg.

In this matter applicants seek authority to extend their service from Stockton to Brentwood. From the testimony of W. C. Colberg, it appears that applicants have for many years been engaged in con-

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ducting a boat service on the San Joaquin River in the Delta region which, however, has become less profitable with the development of roads and trucking facilities, and in many instances the construction of bridges over the arms and branches of the river has effectually prevented the continued operation of boats. There is considerable uncertainty as to the extent and termini of applicants' route, the original operators of the line having disappeared, and it therefore became necessary for applicants to institute this proceeding to determine the extent of their rights. This line is patronized largely by laborers traveling from Stockton to large farms and ranches near Byron and Brentwood, where they are employed, the greater proportion moving to Brentwood. There is also a considerable demand for the transportation of express, consisting principally of emergency shipments of automobile and farm machinery repair parts, the present service not being sufficiently expeditious to accommodate this need. Applicants appear to have adequate equipment and sufficient financial means to conduct the proposed service. Mr. Colberg stated that if the Contra Costa Transit Company service is established, as proposed, he will amend his schedule, if necessary, so as to afford proper connections at Brentwood with that line. The testimony of Mr. Colberg was corroborated by that of George M. Miller, auditor for applicants. In this connection also we shall consider the testimony of those witnesses who described the necessity for a service between Stockton and Brentwood.

The principal protestants to the granting of this application were Southern Pacific Company, San Francisco-Sierra Motor Coach Lines and California Transit Company.

In answer to applicant's showing that no local service was conducted between Byron and Brentwood, E. S. Lubfin, traffic manager of San Francisco-Sierra Motor Coach Lines, testified that on one occasion he rode between these points, purchasing a ticket which was punched by the driver so as to indicate transportation between two other points. This was denied by the driver, who stated he intended to punch the ticket opposite a blank space, and furthermore that to the best of his recollection Mr. Lubfin was the only passenger who had ever traveled between these points. In support of its protest against this application, as well as Application No. 10958 of Contra Costa Transit Company, California Transit Company relied upon certain applications of the Star Auto Stage Association and the Western Motor Transport Company, previously heard and submitted, which sought certificates authorizing passenger service through this territory. These applications, however, were excluded upon objection of counsel that they would necessarily entail a reexamination of the issues involved in the former proceedings.

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Application No. 10808, Oakland-Tuolumne Stage Line.

In this matter applicant sought to extend its service to Carl Inn. At the hearing, applicant asked for a dismissal of the proceeding, at the same time agreeing not to file an application for similar service during the current season. No testimony whatsoever was introduced so, therefore, in accordance with counsel's request, the application will be dismissed.

From a review of the evidence in these proceedings, we are convinced that public convenience and necessity do not require the installation of an additional passenger stage service over the Borden highway between San Francisco and Stockton, this conclusion applying equally to the applications of San Francisco-Sierra Motor Coach Lines and Yosemite Transit. The existing service between these two cities, as shown by the present record, is adequate and dependable, consequently there appears no necessity for introducing another stage service. The need for a through stage line between San Francisco and San Francisco Recreation Camp has not been shown, the public being amply accommodated by the present service. The local service beyond Carl Inn is insufficient; this situation can best be met by extending the Yosemite Transit service from Carl Inn to Peach Growers. There is, unquestionably, a necessity for the establishment of a local freight service to replace that formerly given by the Hetch Hetchy Railroad. Two applicants have applied for this privilege, viz. the Yosemite Transit and the San Francisco-Sierra Motor Coach Lines. The Yosemite Transit has long been operating in this territory and appears better fitted to conduct the service; consequently, a certificate authorizing a freight service between Chinese station and Mather will be granted to Yosemite Transit and its successor, California Transit Company. There also appears to be a need for the proposed stage service between Escalon and Martinez, which will afford a more direct route between Yosemite Valley and San Francisco, as well as accommodate the local traffic. Therefore, a certificate for this service will be granted.

While, as we have stated, the through service between San Francisco and Stockton appears to be adequate, the record indicates a need for local service between points in eastern Contra Costa County and Martinez. Here our choice as to operators lies between the San Francisco-Sierra Motor Coach Lines and the Contra Costa Transit Company. The former is not qualified by experience, nor has it sufficient financial means, to conduct this service; the latter company appears well qualified to enter this field, and because of its affiliations with the electric line there is reasonable assurance for the development of an adequate and dependable service. Therefore, a certificate will be granted to Contra Costa Transit Company, authorizing the inauguration of a stage service between Byron and Martinez and intermediate points.

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With respect to the application of Colberg and Colberg, the evidence shows that although applicants have irregularly conducted a stage service to Brentwood, their own rights appear to be shrouded in considerable uncertainty, due to no fault of the present applicants, who have exercised due diligence in bringing the matter before the Commission for consideration. The record shows a public need for this service, accordingly a certificate will be granted them authorizing operations between Stockton and Brentwood, this being in effect but an extension of service from Byron to Brentwood, there being no question as to their right to operate to Byron.

Upon full consideration of the evidence in the above entitled proceedings, we are of the opinion and hereby find as facts:

1. That public convenience and necessity do not require the operation by H. A. Green, George W. Gerhard and A. L. Lubfin, as copartners doing business under the firm name of San Francisco-Sierra Motor Coach Lines, of an automobile stage service for the transportation of passengers as a common carrier between San Francisco, Richmond, Stockton, Carl Inn and San Francisco Recreation Camp, Mather and Peach Growers or intermediate points; nor does it require the transportation by said applicants of express between Brentwood, Stockton, Buck Meadows, Carl Inn, Mather, Peach Growers or intermediate points; nor does it require the operation by said applicants of an automotive truck service as a common carrier of freight between Chinese, Carl Inn, Mather, Peach Growers and intermediate points.

2. That public convenience and necessity do not require the operation by R. R. Young, doing business under the fictitious name of Yosemite Transit, of an automobile stage service for the transportation of passengers between San Francisco and Stockton as an extension of his present service, in order to conduct a through passenger stage service between San Francisco and San Francisco Recreation Camp; that public convenience and necessity require the operation by California Transit Company, a corporation, as successor in interest to R. R. Young, doing business as Yosemite Transit, of an automobile stage service for the transportation of passengers and baggage between Carl Inn and Peach Growers, as an extension of the existing service between Groveland and Carl Inn; that public convenience and necessity require the operation by California Transit Company, a corporation, as successor in interest to R. R. Young, doing business as Yosemite Transit, of an automobile stage service for the transportation of passengers and baggage between Escalon and Manteca over the Manteca-Escalon road in conjunction with its present operations; that public convenience and necessity require the operation by California Transit Company, a corporation, as successor in interest to R. R. Young, doing

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business as Yosemite Transit, of an automotive truck service for the transportation of freight as a common carrier between Chinese station, Carl Inn and Mather and intermediate points.

3. That public convenience and necessity require the operation by E. H. Ward and H. J. Sutherland, as copartners doing business under the firm name and style of Contra Costa Transit Company, of an automobile stage service for the transportation of passengers and baggage as a common carrier between Byron and Martinez and intermediate points via Brentwood, Oakley, Antioch, Pittsburg and Bay Point; that public convenience and necessity require the transfer by Martinez-Bay Point Stage Company, a corporation, to said E. H. Ward and H. J. Sutherland, copartners doing business under the firm name and style of Contra Costa Transit Company, of an operative right for conducting an automobile passenger stage service for the transportation of passengers between Martinez and Bay Point, heretofore granted to said corporation under this Commission's Decision No. 7275, in Application No. 5197, dated March 17, 1920, and that the same be hereafter merged and consolidated with the right herein granted to said copartnership to conduct a stage service between Byron and Martinez,

4. That public convenience and necessity require the operation by William C. Colberg and Henry J. Colberg, as copartners doing business under the firm name and style of Central Transit Company, of an automobile stage service for the transportation of passengers, baggage and express between Stockton and Brentwood and intermediate points, including Holt, Middle River, Old River and Byron, over and along the following route, viz: From Stockton via the Borden highway to the junction thereof with the concrete highway connecting Byron and Brentwood; thence over said highway to Brentwood; such service to be conducted as an extension of and in connection with the rights heretofore granted by this Commission under its Decision No. 13928, in Application No. 10268, dated August 19, 1924.

An order will be granted accordingly.

ORDER.

Public hearings having been held in the above entitled applications, the matters having been duly consolidated and submitted, the Commission being now fully advised and basing its order on the findings of fact which appear in the opinion preceding this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the operation by H. A. Green, George W. Gerhard and A. L. Lubfin, as copartners doing business under the firm name of San Francisco-Sierra Motor Coach Lines, of an automobile stage service for the transportation of passen-

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gers as a common carrier between San Francisco, Richmond, Stockton, Carl Inn and San Francisco Recreation Camp, Mather and Peach Growers or intermediate points; nor does it require the transportation by said applicants of express between Brentwood, Stockton, Buck Meadows, Carl Inn, Mather, Peach Growers or intermediate points; nor does it require the operation by said applicants of an automotive truck service as a common carrier of freight between Chinese, Carl Inn, Mather, Peach Growers and intermediate points;

It is hereby ordered, that said Application No. 10684 be and the same is hereby denied.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity do not require the operation by R. R. Young, doing business under the fictitious name of Yosemite Transit, of an automobile stage service for the transportation of passengers between San Francisco and Stockton as an extension of his present service, in order to conduct a through passenger stage service between San Francisco and San Francisco Recreation Camp; that public convenience and necessity require the operation by California Transit Company, a corporation, as successor in interest to R. R. Young, doing business as Yosemite Transit, of an automobile stage service for the transportation of passengers and baggage between Carl Inn and Peach Growers, as an extension of the existing service between Groveland and Carl Inn; that public convenience and necessity require the operation by California Transit Company, a corporation, as successor in interest to R. R. Young, doing business as Yosemite Transit, of an automobile stage service for the transportation of passengers and baggage between Escalon and Manteca over the Manteca-Escalon road in conjunction with its present operations; that public convenience and necessity require the operation by California Transit Company, a corporation, as successor in interest to R. R. Young, doing business as Yosemite Transit, of an automotive truck service for the transportation of freight as a common carrier between Chinese station, Carl Inn and Mather and intermediate points.

It is hereby further ordered,

1. That a certificate of public convenience and necessity be and the same is hereby granted to California Transit Company, a corporation, as successor in interest to R. R. Young, doing business under the fictitious name of Yosemite Transit Company, (a) for the operation of an automobile stage service for the transportation of passengers and baggage between Carl Inn and Peach Growers, as an extension of and in conjunction with the existing service between Groveland and Carl Inn; (b) for the operation of an automotive truck service for the transportation of freight as a common carrier between Chinese

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station, Carl Inn and Mather and intermediate points; and (c) for the operation of an automobile stage service for the transportation of passengers and baggage between Escalon and Manteca as an extension of, and in conjunction with, its present service.

2. That in so far as authority is sought for the operation of an automobile stage service between San Francisco and San Francisco Recreation Camp, as an extension of the existing service of Yosemite Transit, said Application No. 10913 be and the same is hereby denied.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the operation by E. H. Ward and H. J. Sutherland, as copartners doing business under the firm name and style of Contra Costa Transit Company, of an automobile stage service for the transportation of passengers and baggage as a common carrier between Byron and Martinez and intermediate points via Brentwood, Oakley, Antioch, Pittsburg and Bay Point; that public convenience and necessity require the transfer by Martinez-Bay Point Stage Company, a corporation, to said E. H. Ward and H. J. Sutherland, copartners doing business under the firm name and style of Contra Costa Transit Company, of an operative right for conducting an automobile passenger stage service for the transportation of passengers between Martinez and Bay Point, heretofore granted to said corporation under this Commission's Decision No. 7275, in Application No. 5197, dated March 17, 1920, and that the same be hereafter merged and consolidated with the right herein granted to said copartnership to conduct a stage service between Byron and Martinez; and

It is hereby further ordered, (1) that a certificate of public convenience and necessity be and the same is hereby granted to said E. H. Ward and H. J. Sutherland, as copartners doing business under the firm name and style of Contra Costa Transit Company, for the operation of the service hereinabove described; and (2) that permission be and the same is hereby granted to said Martinez-Bay Point Stage Company, a corporation, to transfer to said E. H. Ward and H. J. Sutherland, as copartners doing business under the firm name and style of Contra Costa Transit Company, its operative right for conducting an automobile stage service between Martinez and Bay Point, and that the same may be hereafter operated and conducted in connection with, and as a part of, and that it be consolidated and merged with, the operative right hereinabove granted to said Contra Costa Transit Company.

The Railroad Commission of the State of California does hereby further declare that public convenience and necessity require the operation by William C. Colberg and Henry J. Colberg, as copartners doing

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business under the firm name and style of Central Transit Company, of an automobile stage service for the transportation of passengers, baggage and express between Stockton and Brentwood and intermediate points, including Holt, Middle River, Old River and Byron, over and along the following route, viz: From Stockton via the Borden highway to the junction therof with the concrete highway connecting Byron and Brentwood; thence over said highway to Brentwood; such service to be conducted as an extension of and in connection with the rights heretofore granted by this Commission under its Decision No. 13928, in Application No. 10268, dated August 19, 1924.

It is hereby further ordered, that a certificate of public convenience and necessity be and the same is hereby granted to said William C. Colberg and Henry J. Colberg, as copartners doing business under the firm name and style of Central Transit Company, for operating and conducting the service hereinabove described.

It is hereby further ordered, that Application No. 10808 of Oakland-Tuolumne Stage Line, a corporation, be and the same is hereby dismissed without prejudice.

As to each of the applications herein granted, either wholly or in part, said authority herein conferred is granted subject to the following conditions, as to each and all of said applicants:

1. Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

2. Applicants shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariffs of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the applications herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

With respect to the transfer by said Martinez-Bay Point Stage Company of its operative right between Martinez and Bay Point to said E. H. Ward and H. J. Sutherland, as copartners doing business under the fictitious name of Contra Costa Transit Company, the authority herein granted is subject to the following conditions:

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1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate-fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

2. Applicant Martinez-Bay Point Stage Company shall immediately withdraw tariff of rates and time schedules on file with the Commission covering service, certificate for which is herein authorized to be transferred. Such withdrawal to be in accordance with the provisions of General Order No. 51.

3. Applicant Contra Costa Transit Company shall immediately file, in duplicate, its own name, tariff of rates and time schedules covering service heretofore given by applicant Martinez-Bay Point Stage Company, which rates shall be identical with the rates and time schedules now on file with the Railroad Commission in the name of Martinez-Bay Point Stage Company, or rates and schedules satisfactory in form and substance to the Railroad Commission.

4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. No vehicle may be operated by Contra Costa Transit Company unless such vehicle is owned by said applicant, or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes, except as hereinabove stated, the effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this eighteenth day of January, 1927.

DECISION No. 17914.

IN THE MATTER OF THE APPLICATION OF WESTLAND WAREHOUSES, INC., TO ISSUE AND SELL FIFTEEN THOUSAND DOLLARS ADDITIONAL COMMON STOCK.

Application No. 13421.

Decided January 18, 1927.

SECURITIES—STOCK—TO SELL.—Application granted.

Le Roy M. Edwards, for Applicant.

BY THE COMMISSION.

OPINION.

Westland Warehouses, Inc., asks permission to issue and sell to The Los Angeles Corporation, $15,000 of its common capital stock at par for cash.

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The application shows that the company was organized on or about December 17, 1923, under the name of Westland Distribution and Storage Warehouse Company, which name, however, later was changed to Westland Warehouses, Inc., under a decree, dated August 2, 1926, of the superior court in and for the county of Los Angeles. The corporation heretofore has been before the Commission for permission to issue stock and by Decision No. 15026, dated June 6, 1925, was authorized to issue and sell at par for cash $10,000 of stock for the purpose of acquiring warehouse equipment and of conducting warehouse operations. The $10,000 of stock was issued and is reported held as follows:

The Los Angeles Corporation	$9,995 00
Carleton B. Swift	1 00
C. J. Doherty	1 00
L. D. Owen	1 00
K. J. Good	1 00
H. E. Poronto	1 00
Total	$10,000 00

Applicant is owned and controlled by The Los Angeles Corporation, which in turn owns the stock of the Central Manufacturing District, Inc., Los Angeles Union Stock Yards and Los Angeles Junction Railway Company. Applicant leases from the Central Manufacturing District, Inc., a large reinforced concrete warehouse, situated within the district, and it reports that it is handling practically all the warehousing for the industries located in the Central Manufacturing District, as well as doing a general warehouse business, both public utility and nonpublic utility in character.

The company reports its assets and liabilities, as of November 30, 1926, as follows:

Assets.			
Investment:			
Equipment	$4,271 32		
Furniture	2,199 37		
		$6,470 69	
Less depreciation		1,498 66	
			$4,972 03
Working assets:			
Notes receivable		$1,549 00	
Cash		310 03	
Accounts receivable		29,622 49	
Materials and supplies		1,403 18	
			32,884 70
Deferred debit items			2,046 39
Total			$39,903 12

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Liabilities.

Capital stock		$10,000 00
Current liabilities:		
Audited vouchers	$56,685 61	
Accrued pay roll	78 45	
		56,764 06
Deferred credit items		1,397 30
Profit and loss—debit balance		28,258 24
Total		$39,903 12

For the eleven months ending November 30, 1926, applicant reports earnings of $79,318.45 and expenses of $89,881.52, resulting in a net loss of $10,563.07. The operating expenses include $42,566.69 for rent.

In now seeking authority to issue $15,000 of stock, which amount constitutes the remaining stock authorized by the articles of incorporation but unissued, applicant asks permission to use the proceeds to pay outstanding obligations and to reimburse its treasury for moneys actually expended from income. We believe, after reviewing the company's financial statement, that the issue of the additional stock should be authorized, but that the proceeds should be used only for the purpose of paying the indebtedness. As shown in the foregoing balance sheet, applicant's outstanding indebtedness, as of November 30th, aggregated $56,764.06, of which it appears that $55,088.87 was due the Central Manufacturing District, Inc.

ORDER.

Westland Warehouses, Inc., having applied to the Railroad Commission for permission to issue and sell $15,000 of stock, and the Commission being of the opinion that this is a matter in which a public hearing is not necessary, and that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required for the purpose specified herein;

It is hereby ordered, that Westland Warehouses, Inc., be and it hereby is authorized to issue and sell, on or before June 30, 1927, to The Los Angeles Corporation for cash at not less than par, $15,000 of its common capital stock and to use the proceeds to pay in part outstanding indebtedness.

It is hereby further ordered, that applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad

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Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this eighteenth day of January, 1927.

DECISION No. 17917.

IN THE MATTER OF THE APPLICATION OF THE CITY OF SANTA CRUZ FOR AN ORDER AUTHORIZING CONTINUED MAINTENANCE AND RECONSTRUCTION AT PRESENT ELEVATION OF EAST CLIFF DRIVE VIADUCT.

Application No. 13230.

Decided January 18, 1927.

GRADE CROSSING—VIADUCT—IMPAIRED CLEARANCE—TO RECONSTRUCT.—Holding that the clearance of the viaduct is four feet less than the standard fixed by the Commission in its general order No. 26-a, the Commission denies the application.

J. L. Johnston, for City of Santa Cruz.
Harry See, for Brotherhood of Railroad Trainmen.

BY THE COMMISSION.

OPINION.

This is an application by the city of Santa Cruz for permission to reconstruct a bridge carrying a street over a track of Southern Pacific Company at clearances less than those prescribed in this Commission's General Order No. 26-a. A public hearing was held at Santa Cruz on November 12, 1926, before Examiner Austin. At this hearing the Brotherhood of Railroad Trainmen appeared and protested the granting of the application.

The bridge under consideration carries East Cliff Drive over the main track of Southern Pacific Company's Santa Cruz-Watsonville branch in the vicinity of Seabright station. It is of timber construction and crosses the track at a point where the railroad is in a deep cut. The present clearance above the rails is approximately eighteen feet, or four feet less than the minimum clearance of twenty-two feet required by the Commission under General Order No. 26-a for a structure of this nature. This overhead crossing has been in place for at least twenty-five years, and while the present application is made by the city of Santa Cruz, it appears that Southern Pacific Company is obligated by franchise requirement to maintain it.

The city of Santa Cruz is at present improving the East Cliff Drive, an important easterly outlet and pleasure drive which carries considerable traffic, especially during the summer season. The bridge is in such condition that extensive repairs and renewals will soon be required. The city desires to have a sidewalk and a wider driveway provided.

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and has requested the railroad company to make these repairs and improvements. In order to raise the structure four feet and thus provide a clearance of twenty-two feet above the rails, it appears that changes will have to be made in the approaches and the alignment of the connecting roadways. It is claimed that the cost of these changes will amount to a considerable sum, the greater part of which would be property damage. No estimate was presented at the hearing to show the cost of this improvement, but the city engineer stated that, in his opinion, the total expense of completely renewing the structure and raising it to standard clearance might be as great as $20,000. The actual expense of simply raising the bridge four feet would be comparatively small.

Statistics presented by the Brotherhood of Railroad Trainmen show that in the United States during the last three years 65 persons have been killed and 327 injured in accidents resulting from insufficient overhead clearances. It appears that at this location brakemen and switchmen, in performing their duties, would be very apt to be riding on the top of cars; in fact the company's rules would require that certain members of the crew be in such position. As the majority of box cars operated over the Southern Pacific lines are from 12 to 15 feet in height, and as quite a number of Southern Pacific Company's own cars are 15 feet or more in height, a clearance of but eighteen feet does not provide sufficient space for a man of average height to stand erect on top of a car.

The Commission has, after very exhaustive study in which many of the carriers of the state participated, adopted its General Order No. 26-a, prescribing the minimum clearances which, in its judgment, can be safely maintained over or adjacent to railroad tracks. As before stated, the minimum clearance required under General Order No. 26-a is twenty-two feet and except for the additional cost, there appears no reason why this clearance should not be established in the present instance. In fact we believe the hazard to trainmen sufficient to call for the complete abolishment of this nonconforming clearance and the immediate establishment of full legal clearances.

Southern Pacific Company entered no formal appearance in the hearing but an attorney representing that company stated for the record that the company desired to cooperate with the city in this matter and that Southern Pacific Company did not object to the eighteen feet clearance.

The city appears to be in some doubt as to who should stand the expense of raising the bridge to standard clearance. Southern Pacific Company is apparently legally bound to bear the cost of any repairs

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or additions to the actual structure, but whether or not that obligation extends to the approaches has not been determined. The city of Santa Cruz does not request, in the present application, that the Commission apportion the cost of renewing this structure and no attempt will, therefore, be made to determine at this time wherein the responsibility lies for carrying out the requirements of General Order No. 26-a, in case the structure is to be rebuilt. The present application petitions simply for an order authorizing the reconstruction and continued maintenance of the viaduct at the present elevation, which does not provide standard overhead clearance as prescribed in the Commission's General Order No. 26-a. From the record it appears that this application should be denied.

ORDER.

The city of Santa Cruz having made application for an order authorizing the continued maintenance and reconstruction of a viaduct over a track of Southern Pacific Company at clearances less than those prescribed in the Commission's General Order No. 26-a, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that the above entitled application be and it is hereby denied.

Dated at San Francisco, California, this eighteenth day of January, 1927.

DECISION No. 17925.

IN THE MATTER OF THE APPLICATION OF KEY SYSTEM TRANSIT COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR BUSSES ON TELEGRAPH AVENUE, IN THE CITY OF OAKLAND, BETWEEN A TERMINUS AT ELEVENTH STREET AND BROADWAY AND A TERMINUS AT ALCATRAZ AVENUE AND DANA STREET AND INTERMEDIATE POINTS, AS AN EXTENSION TO AND IN CONNECTION WITH ITS PRESENT STREET RAILROAD SYSTEM IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

Application No. 13489.

Decided January 26, 1927.

CERTIFICATE—AUTO BUSSES—TO OPERATE—Application granted.

BY THE COMMISSION.

OPINION AND ORDER.

Key System Transit Company, a corporation, has applied to the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of a motor bus service for

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the transportation of passengers between a terminus at Eleventh street and Broadway and a terminus at Alcatraz avenue and Dana street in the city of Oakland, said service to be operated as an extension of applicant's Telegraph avenue and Shattuck avenue street car line.

Applicant proposes to charge a fare of seven (7) cents with transfer privileges in accordance with an exhibit marked "C," which is attached to the application herein and made a part thereof. The time schedule proposed to be followed is marked Exhibit "B," which is also attached to and made a part of the application herein.

In justification of its claim that public convenience and necessity require the service as proposed, applicant, Key System Transit Company, declares as follows:

> This applicant is now operating a street car line on Telegraph avenue between Alcatraz avenue and the downtown district of Oakland, and a street car line on Shattuck avenue between Forty-ninth street and the downtown district of Oakland. By installing the proposed motor bus service and operating under the schedule hereinafter set forth it will be possible for your applicant to inaugurate a service in the city of Oakland, on both Telegraph and Shattuck avenue, between the termini named, that will be several minutes faster than the service now rendered. The proposed motor bus operation will result in a coordinated street car and bus service on Telegraph avenue, on which avenue in addition to the Telegraph avenue cars the cars of the Shattuck avenue line also operate between the downtown district of Oakland and Forty-ninth street, and it is proposed to operate the through Shattuck avenue street cars on said line with restricted stops south of Forty-ninth street, and the Telegraph avenue line with restricted stops south of Alcatraz avenue, all in the city of Oakland. The proposed bus line will stop at all of the present street car stops north of Tenth street, and the present short line street car service, designated as "Alcatraz avenue" and now operating between Alcatraz avenue and Water street, to be withdrawn and the proposed bus line to handle local passengers heretofore handled by said line. The Telegraph and Shattuck avenue street cars will also stop in the restricted stop district to take on passengers destined to points north of such district on the outbound trips, and will stop to discharge passengers that originate north of such district on the inbound trips. Your applicant believes that the residents of the territory to be served by the proposed motor bus line will, under the proposed operation, be given a more rapid and expeditious means of transportation than is now extended to them.

It is proposed to use motor buses of street car type. The route proposed to be used is as follows:

> Commencing at Eleventh street and Broadway, running thence along Broadway to Telegraph avenue, thence along Telegraph avenue to Alcatraz avenue, thence along Alcatraz avenue to Dana street, thence along Dana street to Sixty-third street, thence along Sixty-third street to Telegraph avenue and south on Telegraph avenue to Tenth street, thence along Tenth street to Washington street, thence along Washington street to Eleventh street and thence along Eleventh street to the point of beginning.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

Wherefore the Railroad Commission of the State of California hereby declares that public convenience and necessity require the

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operation by Key System Transit Company, a corporation, of a motor bus service for the transportation of passengers over and along the following route:

Commencing at Eleventh street and Broadway, running thence along Broadway to Telegraph avenue, thence along Telegraph avenue to Alcatraz avenue, thence along Alcatraz avenue to Dana street, thence along Dana street to Sixty-third street, thence along Sixty-third street to Telegraph avenue and south on Telegraph avenue to Tenth street, thence along Tenth street to Washington street, thence along Washington street to Eleventh street and thence along Eleventh street to the point of beginning; and

It is hereby ordered, that a certificate of public convenience and necessity for such service be and it is hereby granted to Key System Transit Company, a corporation, subject to the following conditions:

(1) Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

(2) Applicant shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariffs of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof.

(3) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

(4) No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this twenty-sixth day of January, 1927.

DECISION NO. 17927.

PAN AMERICAN PETROLEUM COMPANY

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 2296.

Decided January 26, 1927.

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RATES—ELECTRIC RAILROAD—PETROLEUM—REPARATION.—Reparation granted of charges collected in excess of 4½ cents per 100 pounds on shipments of crude oil from Sentous to Watson during the period from March 22 to August 3, 1925, inclusive.

BY THE COMMISSION.

OPINION.

Complainant, a corporation, organized under the laws of the State of California, with its principal place of business at Los Angeles, California, is engaged in producing, refining and marketing petroleum and petroleum products. By complaint filed December 2, 1926, it is alleged that the rates charged on 658 carloads of petroleum crude oil moved from Sentous to Watson during the period from March 22 to August 3, 1925, inclusive, were unreasonable to the extent they exceeded the subsequently established rate of 4½ cents per 100 pounds.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

A rate of 5½ cents was charged on 39 carloads moved prior to April 17, 1925, and rate of 5 cents was charged on 619 carloads moved subsequent thereto. The former is the El Segundo Wharf to Wilmington rate held maximum on the 39 shipments involved; the latter rate applied from Sentous to Watson and was published effective April 17, 1925, in Pacific Electric Railway Tariff 120-B, C. R. C. 254, Item 780-S. Effective August 4, 1925, defendant voluntarily established a rate of 4½ cents on petroleum crude and fuel oil from and to the points involved.

Complainant bases its plea for reparation upon the lower rate subsequently established.

The following comparison of rates and earnings on petroleum crude oil in the same general territory and for distances comparable with those from Sentous to Watson is taken from a statement submitted by complainant:

From	To	Rate, cents	Distance, miles	Rate per ton mile
Sentous	Watson	*5½	24.5	.0449
Sentous	Watson	*5	24.5	.04088
Sentous	Watson	†4½	24.5	.03678
East Long Beach	Watson	3	17.8	.03371
El Segundo	Watson	3	21	.02857
Stewart	Watson	6	38.5	.03117
Los Nietos	Watson	5	28.9	.03460
Loftus	Watson	4½	25.8	.03488

* Rate charged.
† Rate sought.

The rate upon which reparation is sought compares favorably with rates from other producing points in southern California to Watson.

Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment; therefore, under the issues as they now stand a formal hearing will not be necessary.

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Upon consideration of all the facts of record, we are of the opinion and find that the rates of 5½ cents and 5 cents assessed were unreasonable to the extent they exceeded the subsequently established rate of 4½ cents. We further find complainant paid and bore the charges on the shipments involved and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the defendant, Pacific Electric Railway Company, be and it is hereby authorized and directed to refund to complainant, Pan American Petroleum Company of Los Angeles, California, all charges it may have collected in excess of 4½ cents per 100 pounds on the shipments involved forwarded during the period from March 22 to August 3, 1925, inclusive, from Sentous to Watson.

Dated at San Francisco, California, this twenty-sixth day of January, 1927.

DECISION No. 17929.

IN THE MATTER OF THE APPLICATION OF MADERA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF TWELVE THOUSAND SHARES OF ITS CAPITAL STOCK.

Application No. 13449.

Decided January 26, 1927.

SECURITIES—STOCK—TO ISSUE.—Application granted.

Paul Overton, for Applicant.

BY THE COMMISSION.

OPINION.

Madera Gas Company asks permission to issue and sell at par to Pacific Lighting Corporation $12,000 of its common capital stock for the purpose of financing in part the cost of additions, extensions and betterments to its plants, properties and equipment to be made during 1927.

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The application shows that Madera Gas Company has an authorized capital stock of $75,000 divided into 75,000 shares of the par value of $1 each. At present $17,030 of stock is outstanding, all of which except three shares held by directors, appears to be owned by Pacific Lighting Corporation. In addition to the stock the company reports that it has outstanding $43,500 of first mortgage 6 per cent bonds due October, 1943, and reports that it has no other indebtedness except current bills.

In Decision No. 14943, dated May 18, 1925 (Vol. 26, Opinions and Orders of the Railroad Commission of California, page 496), the Commission adjusted applicant's rates, using as a rate base for the year 1925 the sum of $107,576.18. In the present application the company reports that between January 1, 1926, and October 31, 1926, it expended $878 for additions and betterments and it estimates that during the coming year it must expend $16,644.75 for capital purposes, which amount it seeks to provide in part through the issue of the additional $12,000 of stock.

The $16,644.75 is segregated as follows:

Additions to plant, buildings and general structures		$380 45
This covers the contract price of buildings, a shed over lamp black pit, framing in the south and east side of the plant building.		
Additional storage holders		9,000 00
This is the estimated cost of purchasing second hand, 50,000 cu. ft. holder from the Southern Counties Gas Company at Santa Paula, the wrecking and reconstruction on foundations at Madera.		
Additions to purification apparatus		1,200 00
This is the estimated cost of the installation of oil scrubber, 5½ ft. diameter by 25 ft. high, and the necessary piping, pumps and oil lines.		
Additions accessory equipment at work		365 00
This covers the purchase price of one 6x4x6 circulating water pump, one 3x2x4 oil pump and one 4x3x4 boiler feed pump, and the installation at the plant, Madera.		
Additions to distribution mains		4,427 30
This item is as follows:		
4,540 ft. of 4" main, installed at 62 cents	$2,814 80	
2,250 ft. of 3" main, installed at 45 cents	1,012 50	
1,600 ft. of 2" main, installed at 37½ cents	600 00	
Additions distribution services, 65 services at about $8.70 each		565 00
Additions, gas meters		230 00
20 meters installed at $11.50 each.		
Additional transportation equipment		477 00
1 Ford roadster, commercial body.		
Total		$16,644 75

The engineering department of the Railroad Commission has reviewed these expenditures and is of the opinion that they are reasonable and necessary and will result in a material improvement in the company's service.

ORDER.

Madera Gas Company having applied to the Railroad Commission for permission to issue and sell $12,000 of common stock, and the Rail-

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road Commission being of the opinion that this is a matter in which a public hearing is not necessary and that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Madera Gas Company be and it hereby is authorized to issue and sell, at not less than par, for cash, $12,000 of its common capital stock and to use the proceeds to finance in part the cost of the additions, extensions and betterments referred to in the foregoing opinion.

It is hereby further ordered, that applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this twenty-sixth day of January, 1927.

DECISION NO. 17931.

IN THE MATTER OF THE APPLICATION OF UNION OIL COMPANY OF CALIFORNIA, A CORPORATION, FOR APPROVAL OF A WHARF FRANCHISE.

Application No. 13432.

Decided January 26, 1927.

FRANCHISE RIGHTS--WHARF UTILITY--TO EXERCISE.—Application granted.

BY THE COMMISSION.

ORDER.

Union Oil Company of California, a corporation, having, on the sixth day of December, 1926, been granted by the board of supervisors of the county of Contra Costa, State of California, for the term of twenty years, the right, privilege and franchise to maintain, operate, repair, renew, remove and take tolls for a wharf or pier located on certain lands bordering on a navigable stream or inlet of the same situate in said county in Supervisorial District Number One thereof, said lands being more particularly described as contained and within the following boundaries, to wit:

> Beginning at a point on the westerly line of the property of Union Oil Company of California at Oleum, Contra Costa County, California, as shown on Drawing E2A182, said point of beginning being north 39° 29' west, a

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distance of 1717.05 feet from an iron pipe marked "33" and set in concrete on the westerly line of the California State highway, said point of beginning lying also north 39° 29′ west, a distance of 442.49 feet from an iron pipe marked "32" and set in concrete on the easterly line of the right of way of Southern Pacific Company, thence from said point of beginning north 8° 47′ 29″ east, a distance of 1000 feet to a point, thence at right angles thereto south 81° 12′ 31″ east, a distance of 150 feet more or less to a point at high water mark on the existing shore line, thence along the line of high water on said existing shore line and also along the westerly line of the right of way of the Southern Pacific Company in a general southerly direction to a point on said westerly right of way which is south 81° 12′ 31″ east from the point of beginning and which is distant from said point of beginning 225 feet more or less, thence north 81° 12′ 31″ west, to the point of beginning.

Applicant, Union Oil Company of California, a corporation, having applied to the Railroad Commission for approval of said right, privilege and franchise, and having submitted to the Railroad Commission copies of the articles of incorporation of the Union Oil Company of California and a copy of the ordinance of the board of supervisors of the county of Contra Costa, State of California, granting said right, privilege and franchise, and a stipulation declaring that neither the Union Oil Company of California, a corporation, nor its successors or assigns, will ever claim before the Railroad Commission, or any court or other public body, any value for said wharf franchise in excess of the amount actually paid for the granting thereof, and that the said amount is in the sum of $230.50, comprising the sum of $100 paid in cash to said county of Contra Costa, and the sum of $130.50 paid for costs of advertising in connection therewith, all being included in the bid of the grantee of said franchise, which bid was duly accepted by the board of supervisors; and

The Railroad Commission being of the opinion that this is not a case in which a public hearing is necessary, and that this application should be granted; now, therefore,

It is hereby ordered, that the Railroad Commission of the State of California hereby approves the right, privilege and franchise described in the application herein; and

It is hereby further ordered, that the Railroad Commission hereby declares that the stipulation filed herein, to the effect that neither the applicant nor its successors or assigns, will ever claim before the Railroad Commission of the State of California, or any court or other public body, any value for the said wharf franchise in excess of the amount actually paid for the grant thereof, is satisfactory as to form and contents.

Dated at San Francisco, California, this twenty-sixth day of January, 1927.

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DECISION No. 17942.

IN THE MATTER OF THE APPLICATION OF KEY SYSTEM TRANSIT COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUE AND SALE OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS OF FIRST MORTGAGE SIX PER CENT GOLD BONDS, SERIES "D."

Application No. 13340.

Decided January 27, 1927.

Brobeck, Phleger and Harrison, by *W. I. Brobeck*, for Applicant.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

By Decision No. 17759, dated December 13, 1926, as amended, the Railroad Commission authorized Key System Transit Company to issue and sell $1,500,000 of first mortgage 6 per cent gold bonds and to use $777,161.77 of the proceeds to pay outstanding current liabilities. The order provides that the remainder of the proceeds may be expended only for such purposes as the Commission might authorize in supplemental orders.

In a supplemental petiton filed in the above entitled matter on January 11, 1927, the company asks permission to expend $132,135.36 of the remaining proceeds to pay trade acceptance given in payment for fourteen 28-passenger Fageol six-cylinder auto busses. It is applicant's intention to operate the busses on Telegraph avenue between Tenth and Broadway, Oakland, and Alcatraz and Telegraph avenues. The Commission by Decision No. 17925, dated January 26, 1927, in Application No. 13489, authorized applicant to install said bus service. It is reported that this service will be of an experimental nature only and will be discontinued at the end of six months if found unsuccessful. The record shows, however, that in such an event, the fourteen busses will and can be used on other routes.

A public hearing was held on the supplemental petition before Examiner Fankhauser. The Commission has given consideration to applicant's request and is of the opinion that the expenditures herein authorized are reasonably required by applicant and are not, in whole or in part, reasonably chargeable to operating expense or to income; therefore,

It is hereby ordered, that the order in Decision No. 17759, dated December 13, 1926, be and it hereby is modified so as to permit Key System Transit Company to use $132,135.36 of the proceeds from the sale of the bonds authorized by said decision to pay for the fourteen 28-passenger auto busses referred to herein, or pay trade acceptances given in payment for said busses.

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It is hereby further ordered, that the order in Decision No. 17759, dated December 13, 1926, as amended, shall remain in full force and effect except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-seventh day of January, 1927.

DECISION No. 17946.

IN THE MATTER OF THE APPLICATION OF NEVADA, CALIFORNIA AND OREGON TELEGRAPH AND TELEPHONE COMPANY FOR THE APPROVAL OF A CERTAIN AGREEMENT.

Application No. 13377.

Decided January 31, 1927.

TRANSFER—TELEPHONE UTILITY—TO LEASE—Application granted.

Albert A. Rosenshine, for Nevada, California and Oregon Telegraph and Telephone Company.
Harry A. Encell, for Red River Lumber Company.
J. G. Marshall, for The Pacific Telephone and Telegraph Company.

BY THE COMMISSION.

OPINION.

The Nevada, California and Oregon Telegraph and Telephone Company asks the Railroad Commission to approve an agreement entered into between said company and the Red River Lumber Company, under the terms of which the Red River Lumber Company will lease a telephone line to the Nevada, California and Oregon Telegraph and Telephone Company. A copy of the agreement is attached to the petition in this proceeding and marked Exhibit "A."

It is of record that the Red River Lumber Company owns a telephone line consisting of two No. 8 iron wires strung on suitable pole supports and extending from Westwood, Lassen County, California, to what is known as Hat Creek Power House No. 1, situated near Carbon, Shasta County, California, a distance of about 54 miles. From Hat Creek Power House No. 1 the telephone line is extended on poles of the Pacific Gas and Electric Company via Hat Creek Power House No. 2 to a point of intersection, northerly from Carbon, with the route of the state highway running between Burney and Fall River Mills. The telephone line is now being used by the lumber company for the transmission of its private messages between Westwood and Carbon and, according to the testimony, is used primarily for power dispatching purposes.

Under the agreement filed in this proceeding as applicant's Exhibit "A," the Red River Lumber Company, hereinafter sometimes referred to as the "Lumber Company," grants to the Nevada, California and Oregon Telegraph and Telephone Company, hereinafter sometimes referred to as the "Telephone Company," for a period of five years

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from the date of the agreement, unless the agreement is previously canceled as provided in said agreement, the exclusive right to use the telephone line for the dispatch and receipt of all commercial telephone and telegraph business, subject to the terms of the agreement. The agreement further provides that the Lumber Company will maintain the line at its own expense and will switch telephone messages at Westwood to connect thereat with the lines of the Telephone Company and will operate the same in conformity with the rules, regulations and rates prescribed by the Telephone Company when dispatching and receiving said commercial telephone and telegraph business, as agent for, and without cost to the Telephone Company. The agreement further provides that all private messages of the Lumber Company between Westwood, Carbon and intermediate points, either verbal or written, shall not be classed as commercial business and shall not be subject to the tolls, tariffs and charges that the Telephone Company prescribed for commercial business, unless said messages extend beyond Westwood or Carbon, respectively, to the lines of the Telephone Company or to those associated with the Telephone Company, in which case, the messages of the Lumber Company shall be handled and charged as commercial business. The Telephone Company agrees to pay the Lumber Company as rental for use of the line and in payment of all service rendered by the Lumber Company, $15 per month, plus a sum per month equivalent to one-half of the total tolls charged by reason of the use of the line on commercial business, after deducting from such tolls the percentage thereof payable to the State of California as a franchise tax. The Telephone Company further agrees to present to the Railroad Commission of the State of California for its approval a schedule of rates based upon a telephone toll rate for the use of said line between the terminals thereof at Westwood, Lassen County, and at Carbon, Shasta County, California, of 40 cents for one minute and 20 cents for each additional minute or fraction thereof, with proportionately lesser rates applying for intermediate points, and further a telegraph rate for a ten-word message of 30 cents, with 2½ cents additional for each word over ten. Paragraph 10 of the agreement reads:

> Nothing in this agreement shall be construed as in any way conveying to Telephone Company any right of ownership or right of continuing use of said line except as to the uses herein provided for the period stated. It is understood by and between the parties hereto (Red River Lumber Company and Nevada, California and Oregon Telegraph and Telephone Company), and is the intention of said parties that the uses of said line for commercial business as herein provided shall not be urged by either party as constituting a dedication thereof to public use.

Paragraph 13 of the agreement reads in part as follows:

> It is hereby expressly understood by each of the parties hereto and by the Railroad Commission of the State of California, the approval of which to this agreement is necessary, that the property herein sought to be leased by Lumber Company is the private property of said Company and was constructed for

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its own uses only. Furthermore, in relation thereto, that in entering into this contract subject to the approval of the Railroad Commission, the Lumber Company is not by the leasing of the same impressing upon said telephone facility a dedication to public use nor in any way is concerned as a telephone line or telephone corporation as the same are defined in subdivisions S and T, section 2 of the Public Utilities Act, but for the uses of Telephone Company, a telephone corporation as defined by subdivision T, section 2 of the Public Utilities Act, is entering into this contract subject to all the terms and provisions thereof relative to cancellation with no intention on the part of Lumber Company to dedicate said telephone facility to public use.

The agreement contains other provisions, but we do not feel that it is necessary to call attention to such provisions for the purpose of this decision.

In our opinion the agreement should be modified in two particulars: First, there should be eliminated from paragraph 13 the following language:

and by the Railroad Commission of the State of California, the approval of which to this agreement is necessary. * * *

In the second place, the agreement should contain the clause prescribed in Commission's General Order No. 73, reading as follows:

This contract shall at all times be subject to such changes or modifications by the Railroad Commission of the State of California as said Commission may from time to time direct in the exercise of its jurisdiction.

The testimony shows that the Telephone Company desires to rent the excess facility of the Red River Lumber Company line from Westwood to Carbon. If the application is granted, it is the intention of the Telephone Company to continue the line from Carbon to Fall River Mills, at which point it will connect with the Bass Telephone system, the Fall River Valley Telephone Company, the Nevada, California and Oregon Telegraph and Telephone system and with the E. R. Feuz system. The leasing of this line and its extension will afford a practical and direct route between Big Valley (Bieber) and Fall River Valley and towns therein and Westwood and Susanville. Under existing conditions messages of residents of the two valleys are transmitted via Alturas, which is a roundabout and unpractical route. The proposed route will give a more rapid service and ties in the lines of the Nevada, California and Oregon Telegraph and Telephone system, as they operate through the Westwood section and to the north out of Fall River Mills. It is not the desire of the Telephone Company in any way to solicit or seek any business now flowing to any of the companies operating in the vicinity of Fall River Mills.

Counsel for applicant took the position at the hearing that in his opinion it was not necessary for the Nevada, California and Oregon Telegraph and Telephone Company to obtain a permit under section 50 of the Public Utilities Act to operate the aforementioned telephone line. It is the intention of the company, however, if this application is

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granted, to file with the Commission an application for permission to extend the line from Carbon to Fall River Mills and in such application also request permission to operate the line which it intends to lease from the Red River Lumber Company. The record shows that the Lumber Company now uses the line probably twice a day in regulating the flow of power generated at Hat Creek Power Plant No. 1 and Hat Creek Power Plant No. 2. Counsel for the Red River Lumber Company stated that it was his recollection that the Lumber Company does not use the line ten minutes per day. A. J. Mathews, vice president and general manager of the Telephone Company, testified that because of the limited use the Lumber Company is making of the line, there will be little or no interference with the transmission of commercial business. He further testified that as soon as there is sufficient business to warrant the building of a line, his company would do so. We believe that this application should be granted as provided in the following order:

ORDER.

Nevada, California and Oregon Telegraph and Telephone Company having requested the Commission to approve the agreement filed in this proceeding and marked Exhibit "A," a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the company should be permitted to execute an agreement substantially in the same form as Exhibit "A," provided said agreement is modified as indicated in the opinion which precedes this order; therefore,

It is hereby ordered, that the Nevada, California and Oregon Telegraph and Telephone Company be and it is hereby authorized to execute an agreement substantially in the same form as the agreement filed in this proceeding and marked Exhibit "A," provided that such agreement be amended as indicated in the opinion which precedes this order.

It is hereby further ordered, that within thirty days after the execution of the agreement herein authorized Nevada, California and Oregon Telegaph and Telephone Company shall file with the Commission a certified copy of said agreement.

Dated at San Francisco, California, this thirty-first day of January, 1927.

DECISION No. 17950.

IN THE MATTER OF THE APPLICATION OF L. F. COWAN FOR PERMISSION TO SELL CERTAIN PROPERTIES TO SONOMA WATER AND IRRIGATION COMPANY.

Application No. 13452.

IN THE MATTER OF THE APPLICATION OF BOYES HOT SPRINGS CO., A CORPORATION, FOR PERMISSION TO SELL ITS PROPERTIES.

Application No. 13453.

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IN THE MATTER OF THE APPLICATION OF AUGA CALIENTE WATER WORKS, WM. F. WHITE, OWNER, FOR PERMISSION TO SELL ITS PROPERTIES.

Application No. 13454.

Decided February 2, 1927.

TRANSFER—WATER UTILITY—TO SELL.—Application granted

Knight, Boland and Christin, by *F. J. Kilmartin*, for Sonoma Water and Irrigation Company.
Dudley Sales, for Boyes Hot Springs Company.
Frank Sprague, for W. H. Turner, owner of record of Agua Caliente Water Works.
R. M. Barrett and *A. L. Grinstead*, for Water Consumers' League of Sonoma.
H. A. Postlethwaite, for City of Sonoma.

WHITSELL, *Commissioner*.

OPINION.

In these three proceedings the Railroad Commission is asked to authorize the transfer of two small public utility water systems; one located in the vicinity of Agua Caliente and the other in the vicinity of Boyes Springs, Sonoma County, to L. F. Cowan, and the transfer in turn of such systems from L. F. Cowan to Sonoma Water and Irrigation Company, a public utility water corporation now supplying water for domestic and commercial purposes in and about Sonoma, Sonoma Vista and El Verano. The Commission also is asked to authorize Sonoma Water and Irrigation Company to use $10,000 obtained from the sale of preferred stock heretofore authorized to be issued, to pay for the two properties.

A public hearing was held on these matters in Sonoma on January 14, 1927, at which time they were consolidated for the purpose of receiving evidence and for decision. During the hearing it was stipulated by counsel that the record in Applications Nos. 13381, 13382 and 13383 might be considered as part of the record in these proceedings. The system located in Agua Caliente, serving about 105 consumers, is known as the Agua Caliente Water Works and is operated by Wm. F. White under a contract to purchase, dated October 11, 1921, from W. H. Turner. He has entered into an agreement, dated December 7, 1926, to transfer the water properties to L. F. Cowan in consideration for $5,000 in cash and $5,000 par value of the common stock of Sonoma Water and Irrigation Company now owned by L. F. Cowan. The system at Boyes Springs, which serves about 46 consumers, is owned by Boyes Hot Springs Company, a corporation, which has agreed to transfer it to L. F. Cowan in consideration for $1,000 in cash. In both cases transfer will be made free and clear of encumbrances.

Upon acquiring the properties, L. F. Cowan proposes to transfer them to Sonoma Water and Irrigation Company for $10,000 in cash.

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In support of this request applicants have submitted two appraisals of the physical properties; one prepared by R. C. Specht, a consulting engineer, and the other by Walter H. Davis, a consulting engineer employed by The American Appraisal Company. In addition, there is in the record an appraisal prepared by H. A. Noble, one of the Commission's assistant hydraulic engineers. These appraisals show the following:

R. C. Specht	Agua Caliente Water Works	Boyes Hot Springs Co.	Total
Reproduction cost	$10,947 91	$2,984 14	$13,932 05
Depreciation	900 00	500 00	1,400 00
Present value	$10,047 91	$2,484 14	$12,532 05
Walter H. Davis			
Reproduction cost	$10,471 00	$4,119 00	$14,590 00
Depreciation	3,266 00	1,423 00	4,689 00
Present value	$7,205 00	$2,696 00	$9,901 00
H. A. Noble			
Reproduction cost	$10,259 00	$3,727 00	$13,986 00
Depreciation	3,164 00	1,261 00	4,425 00
Present value	$7,095 00	$2,466 00	$9,561 00

The testimony herein indicates that the amounts used by R. C. Specht for depreciation are arbitrary figures, while those used by Walter H. Davis and H. A. Noble represent estimated depreciation accrued on the straight line method based on the estimated useful lives of the various items making up the water systems. The difference of $340 between the present values found by Walter H. Davis and H. A. Noble is accounted for chiefly by differences in general overhead and minor differences in unit prices.

I believe, however, that in passing on these proposed transfers we should give consideration to the earnings of the properties, as well as to the physical value. Both operators have filed with the Commission a financial statement showing revenues and expenses for the calendar year 1926. These statements show the following:

	Agua Caliente Water Works	Boyes Hot Springs Co.	Total
Revenue	$1,488 50	$688 87	$2,177 37
Expenses	774 23	294 00	1,068 23
Net income	$714 27	$394 87	$1,109 14

It appears, however, that the reported operating expenses include no allowances for depreciation and that had such allowances been made, during 1926, the net income would have been substantially less than $1,109.14. There is nothing in the record to show to what extent, if any, operating expenses can be reduced by Sonoma Water and Irrigation Company.

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Sonoma Water and Irrigation Company proposes to pay for the two properties the sum of $10,000 which was obtained from the sale of the 8 per cent cumulative preferred stock issued under authority granted by the Commission by Decision No. 9683, dated October 31, 1921, in Application No. 6637. That decision permitted the corporation to use for commissions or brokerage fees and organization expenses, an amount equal to 20 per cent of the par value of the stock sold, if sold at par or more. If sold at less than par it permitted the use for these purposes of an amount equal to the difference between such selling price and 80. It appears that the stock was sold so as to net the corporation 80, so that the $10,000 now proposed to be used represents the net proceeds from the sale of $12,500 of stock.

After having given consideration to the valuation of the properties, to the earnings of the properties, to the price which L. F. Cowan has agreed to pay for the properties, to the price at which he proposes to sell them to the Sonoma Water and Irrigation Company, to the financial condition and earnings of that company and other facts pertinent to the transfer of the properties, it is my opinion that Sonoma Water and Irrigation Company should not pay more than $9,000 for the properties which Wm. F. White and Boyes Hot Springs Company have agreed to sell to L. F. Cowan and he in turn to the company.

At the hearing, counsel for the city of Sonoma and for the Water Consumers' League protested the granting of the requests unless the corporation would agree, upon acquiring the two plants, to treat them as separate units from the present system. Counsel for the company stated that while it was proposed to link up the two plants with the plants now operated, it was not planned to include such new properties in the rate proceeding, Application No. 12946, now pending before the Commission. I do not believe the rights of the consumers in the city of Sonoma will be prejudiced by the proposed transfer. The record shows that the corporation proposes to continue in effect the same rates now charged in Boyes Springs and in Agua Caliente and that it is not asking any adjustment in the rates charged on its present systems in and about the city of Sonoma as a result of the proposed consolidation. In the event the company at some future time files a petition involving rates of its entire business, objection can be made at that time to considering the entire property and business of the corporation as one entity for rate making purposes. The question of rates is not involved in these applications.

I believe that public convenience and necessity will be served by the transfer of the two water plants to Sonoma Water and Irrigation Company under the terms and conditions indicated in this opinion and accordingly submit the following form of order:

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ORDER.

Applications having been filed with the Railroad Commission for permission to sell and transfer the public utility water plants referred to in the opinion which precedes this order, a public hearing having been held and the Commission being of the opinion that the applications should be granted, as herein provided;

It is hereby ordered, as follows:

1. W. H. Turner and/or Wm. F. White may transfer the public utility water system known as the Agua Caliente Water Works to L. F. Cowan, such transfer to be made free and clear of liens and encumbrances.

2. Boyes Hot Springs Company may transfer its public utility water system, referred to in the foregoing opinion, to L. F. Cowan, such transfer to be made free and clear of liens and encumbrances.

3. L. F. Cowan, upon acquiring the two public utility water systems herein authorized to be transferred to him may thereafter transfer all of said properties to Sonoma Water and Irrigation Company, a corporation, and Sonoma Water and Irrigation Company may acquire and operate such public utility water plants, provided it obtains the said properties free and clear of all liens, charges and encumbrances.

4. Sonoma Water and Irrigation Company may use $9,000 obtained from the sale of the preferred stock authorized to be issued by Decision No. 9683, dated October 31, 1921, in Application No. 6637, to pay in full for the two water systems it is herein authorized to acquire from L. F. Cowan, provided it acquire said systems free and clear of all liens, charges and encumbrances.

5. Wm. F. White and Boyes Hot Springs Company shall file with the Commission certified statements indicating the exact days upon which they relinquished possession of the water systems they are herein authorized to transfer to L. F. Cowan, such statements to be filed within ten days after possession is so relinquished.

6. Within thirty days after acquiring the properties, as herein authorized, Sonoma Water and Irrigation Company shall file with the Commission a certified copy of the deed, or deeds, under which it acquires such properties, and shall also file in its own name the schedule of rates now charged on the Agua Caliente Water Works system and the Boyes Hot Springs Company system.

7. The authority herein granted is subject to the following conditions:

a. The prices at which the water properties are herein authorized to be transferred shall not hereafter be urged before this Commission or other court or public body as a measure of value of such properties for the purpose of fixing rates or for any purpose other than these transfers.

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b. The order in Decision No. 9683, dated October 31, 1921, as amended, shall remain in full force and effect, except as modified in this order.

c. The authority herein granted shall become effective twenty days after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this second day of February, 1927.

DECISION No. 17951.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF TEN MILLION DOLLARS PAR VALUE OF ITS FIRST AND GENERAL MORTGAGE GOLD BONDS, SERIES OF FIVES DUE 1961.

Application No. 13487.
Decided February 2, 1927.

SECURITIES—BONDS—TO ISSUE AND SELL.—Application granted.

Paul Overton, for Applicant.

BY THE COMMISSION.

OPINION.

Los Angeles Gas and Electric Corporation asks permission to issue and sell, at not less than 94½ per cent of face value, plus accrued interest $10,000,000 of its first and general mortgage gold bonds, series of 5s, due 1961, and to use the proceeds from the sale of $6,895,500 thereof to redeem and retire, prior to maturity, $6,895,500 of general and refunding mortgage bonds now outstanding, and to use the proceeds from the remaining $3,104,500 to pay in part the cost of necessary additions and extensions to its plants and properties to be made during 1927.

In Exhibit "A" applicant reports its outstanding bonded indebtedness, as of January 1, 1927, at $45,177,500, consisting of the following:

General and refunding bonds—	
Series "B" 7s due 1931	$3,500,000 00
Series "C" 7s due 1931	1,500,000 00
Series "D" 6s due 1942	1,937,500 00
Series "E" 5½s due 1947	4,999,500 00
Series "F" 5½s due 1943	3,809,000 00
Series "G" 6s due 1942	4,030,000 00
Series "H" 6s due 1942	7,545,000 00
Series "I" 5½s due 1949	10,847,500 00
	$38,138,500 00
First and refunding mortgage 5s due 1939	5,046,000 00
Los Angeles Gas and Electric Company 5s due 1934	1,993,000 00
Total	$45,177,500 00

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The bonds applicant now proposes to issue constitute the initial issue under a new mortgage or deed of trust, of the opened type, known as the first and general mortgage, executed jointly by applicant and Los Angeles Lighting Company as of September 1, 1926. The amount of bonds authorized at this time by applicant's stockholders is $150,000,000. These bonds may be issued in series from time to time as the board of directors may determine, each series to be dated as of such date, bear such rate of interest, mature at such time or times, bear such designation and contain such other specifications and provisions as are in the indenture provided or permitted and as the board of directors may from time to time determine. The instrument provides for the authentication forthwith by the trustee of $15,000,000 of bonds and the use by applicant of $6,895,500 for the purpose of redeeming, prior to maturity, a like amount of general and refunding mortgage bonds, and the balance, $8,104,500, to pay for property. The execution of the mortgage or deed of trust was authorized by the Commission by Decision No. 17256, dated August 23, 1926.

The $6,895,500 of general and refunding mortgage bonds which applicant proposes to retire and redeem, include the $3,500,000 of Series "B" 7 per cent bonds, the $1,500,000 of Series "C" 7 per cent bonds and $1,895,500 of the Series "I" 5½ per cent bonds. The Series "B" and "C" bonds are callable at a premium of 4½ per cent on June 1, 1927. The Series "I" bonds are callable at a premium of 5 per cent on October 1 up to and including 1939 and at one-half per cent less on each October 1 thereafter. It appears, however, that it will not be necessary to call the $1,895,500 of Series "I" bonds, for the reason that such bonds are held by Pacific Lighting Corporation, which corporation owns substantially all of applicant's outstanding common stock, and that company has agreed to surrender the bonds to applicant at the same price at which it acquired them, namely, at 95 per cent of face value plus accrued interest.

Coming to the request to use the proceeds from the $3,104,500 of the bonds herein applied for, it appears that applicant estimates its expenditures for 1927 for additions and extensions to its plants, properties and equipment at $5,637,987. This sum is set forth in applicant's Exhibit No. 2 and includes the following:

Gas works		$332,665 00
Electric works:		
Seal Beach Station	$58,471 00	
Alameda Street Station	44,126 00	
		102,597 00
Gas distribution system		2,045,600 00
Including 70 miles commercial mains, 71 miles of pressure and betterment mains, 18,000 gas services, 20,000 gas meters, 2000 gas regulators.		

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Electric distribution system	$2,467,714 00
Including pole line and conduit extensions, substations, transformers, 12,000 electric services and 12,800 electric meters.	
Changes account of natural gas service	175,000 00
Miscellaneous	514,411 00
	$5,637,987 00

The order herein will authorize the use of bond proceeds to finance in part these expenditures, but it should be understood that such authority is not an approval at this time of all the estimated expenditures.

ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for permission to issue bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue, is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Los Angeles Gas and Electric Corporation be and it hereby is authorized to issue and sell on or before June 30, 1927, at not less than 94½ per cent of their face value and accrued interest, $10,000,000 of its first and general mortgage gold bonds, series of 5s, due September 1, 1961, and to use the proceeds from the sale of $6,895,500 of such bonds for the purpose of redeeming and retiring outstanding general and refunding mortgage bonds consisting of $3,500,000 of Series "B" bonds, $1,500,000 of Series "C" bonds and $1,895,500 of Series "I" bonds, and to use the proceeds from the remaining $3,104,500 of such bonds to finance in part the cost of additions and extensions to its plant and properties which are described in its Exhibit No. 2 filed in this proceeding.

The authority herein granted is subject to the following conditions:

1. Only such expenditures as are properly chargeable to fixed capital accounts as defined in the uniform system of accounts prescribed or adopted by this Commission, shall be financed with the proceeds from the sale of the bonds herein authorized.

2. Applicant may amortize the remaining unamortized discount and expense on the Series "B" and the Series "C" bonds to be redeemed, and the premium which it may be necessary to pay, to redeem such bonds, on or before June 1, 1931.

3. Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General

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Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $2,052.50.

Dated at San Francisco, California, this second day of February, 1927.

DECISION No. 17953.

IN THE MATTER OF THE APPLICATION OF WHITTIER HOME TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE STOCK.

Application No. 13458

Decided February 2, 1927.

SECURITIES—STOCK—TO ISSUE.—Permission granted to issue $420,000 of common stock. Application denied as relates to $25,000 of stock.

Ernest Irwin, for Applicant.

BY THE COMMISSION.

OPINION.

In its amended petition filed in the above entitled matter, Whittier Home Telephone and Telegraph Company asks permission to issue $445,000 of its common stock for the purposes hereinafter set forth.

Whittier Home Telephone and Telegraph Company owns and operates the telephone system serving the city of Whittier and the territory adjacent thereto including the city of La Habra and portions of Los Angeles County and Orange County. The company's articles of incorporation have recently been amended and, as amended, provide for an authorized stock issue of $1,000,000 divided into 10,000 shares of the par value of $100 each. Eight thousand shares of the company's stock represent common stock and two thousand shares six per cent cumulative preferred stock. The company now has outstanding $60,000 of common stock.

As of December 1, 1926, applicant reports assets and liabilities as follows:

Assets.

Fixed capital investment	$588,139 63
Cash, general fund	7,260 11
Accounts receivable	26,529 22
Material and supplies	16,086 13
Sinking fund assets	605 26
Insurance reserve fund, cash	600 00
Other deferred debits	10,901 09
Total	$670,139 38

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Liabilities.

Capital stock		$60,000 00
Funded debt		40,600 00
Audited vouchers and wages, unpaid		3,598 98
Accounts payable, unsecured loans		308,852 95
Miscellaneous payables		9,853 99
Matured interest unpaid		5,717 79
Reserve for accrued depreciation		54,103 58
Insurance reserve		600 00
Appropriated surplus	$112,155 42	
Unappropriated surplus	54,656 67	
Total surplus		167,412 09
Total		$650,139 38

It will be noted that the company reports a surplus of $167,412.09 as of December 1, 1926. Applicant's Exhibit No. 1 and the testimony herein shows that this surplus includes $31,320 which the company intends to transfer to depreciation reserve or to other reserve accounts. The company does not consider the $31,320 available for dividends, the items making up the $31,320 being as follows:

Reserved to transfer to depreciation reserve in addition to regular annuity for a period of years	$19,650 00
Reserved for additional loss on old equipment	4,500 00
Reserve clearing accounts	2,500 00
Reserve for income tax 1926	1,670 00
Reserve for state tax	3,000 00
	$31,320 00

Deducting the $31,320 from the company's reported surplus of $167,412.09 on December 1, 1926, leaves a balance of $136,092.09. It is represented that the $136,092.09 as well as the $31,320 to which reference has been made, is invested in the company's properties. Because of the investment of the $136,092.09, applicant asks permission to issue $120,000 of common stock to reimburse its treasury and distribute the same as a dividend to its present stockholders.

Applicant reports current liabilities of $328,023.71. Of this sum $308,852.95 was borrowed, it is said, to reconstruct and enlarge applicant's telephone properties. It has constructed a new central office building, changed its central office equipment from manual to automatic and made other improvements. To pay its current liabilities, applicant asks permission to issue $325,000 of common stock at par. Applicant reports current assets of $49,875.46. Ordinarily the current assets are available for the payment of current liabilities. Applicant's current liabilities, however, are greatly in excess of its current assets and the greater part of such liabilities were incurred for construction purposes. The record does not conclusively show that it is necessary for applicant to issue an amount of stock approximately equal to its current liabil-

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ities. Some of such liabilities should be paid through the use of current assets. The order herein will permit the issue of $300,000 of common stock for the purpose of paying indebtedness. A Wardman, secretary of Whittier Home Teleprone and Telegraph Company, testified that such stock will be sold by the company without payment of any commissions and that only a nominal expense would have to be incurred by the company to sell the same.

ORDER.

Whittier Home Telephone and Telegraph Company having asked permission to issue $445,000 of its common capital stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of $420,000 of stock is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income and that this application in so far as it involves the issue of $25,000 of stock be dismissed without prejudice; therefore,

It is hereby ordered, as follows:

1. Whittier Home Telephone and Telegraph Company may issue at not less than par for the purpose of reimbursing its treasury $120,000 of its common capital stock and distribute such stock as a dividend to its common stockholders.

2. Whittier Home Telephone and Telegraph Company may issue and sell for cash at not less than par on or before June 30, 1927, $300,000 par value of its common capital stock and use the proceeds to pay in part the indebtedness reported in the company's balance sheet as of December 1, 1926.

3. The authority herein granted will become effective upon the date hereof.

4. Whittier Home Telephone and Telegraph Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. This application in so far as it involves the issue of $25,000 of stock is hereby dismissed without prejudice.

Dated at San Francisco, California, this second day of February, 1927.

DECISION No. 17955.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE

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PURCHASE OF ALL OF THE CAPITAL STOCK OF TURLOCK HOME TELEPHONE AND TELEGRAPH COMPANY AND FOR THE TRANSFER OF THE PROPERTY OF TURLOCK HOME TELEPHONE AND TELEGRAPH COMPANY TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, AND AUTHORIZING THE TURLOCK COMPANY TO RETIRE FROM THE TELEPHONE BUSINESS AND AUTHORIZING THE PACIFIC COMPANY TO ENTER THE TERRITORY INVOLVED AND ASSUME THE OBLIGATIONS OF RENDERING TELEPHONE SERVICE THEREIN.

Application No. 13267.

Decided February 4, 1927.

TRANSFER—TELEPHONE UTILITY—SERVICE—TO ABANDON.—Supplemental order vacating previous order and authorizing transfer of the property free and clear of encumbrances. Seller authorized to abandon public utility obligations.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

In the original petition filed in the above entitled matter on October 22, 1926, it was reported to the Commission that under date of August 11, 1926, the holders of all of the outstanding stock of Turlock Home Telephone and Telegraph Company had granted to The Pacific Telephone and Telegraph Company an option to purchase such stock for $100,000, payable in cash. The Commission was asked to authorize The Pacific Telephone and Telegraph Company to purchase such stock and thereafter to authorize Turlock Home Telephone and Telegraph Company, upon the payment of the nominal consideration of $1 to transfer the properties comprising its system to The Pacific Telephone and Telegraph Company. These requests were granted by the Commission by Decision No. 17747, dated December 11, 1926.

The companies now report, in a supplemental petition filed in this matter on January 27, 1927, that they have rescinded and canceled the agreement of August 11, 1926, and have entered into a new agreement for the purchase and sale of the properties of Turlock Home Telephone and Telegraph Company. The new agreement, a copy of which is filed with the supplemental petition as Exhibit "B", is dated January 17, 1927, and provides for the transfer of the properties, free and clear of all liens, encumbrances and indebtedness, in consideration for the payment of $100,000 in cash. The Commission is asked to modify the former order so as to set aside the authority granted The Pacific Telephone and Telegraph Company to purchase capital stock and to authorize the transfer of the properties in accordance with the terms of the new agreement.

We have given consideration to this request and believe it should be granted, as herein provided; therefore,

It is hereby ordered, that the order in Decision No. 17747, dated December 11, 1926, be and it hereby is vacated and set aside.

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It is hereby further ordered, that Turlock Home Telephone and Telegraph Company be and it hereby is authorized to sell and transfer all of its properties free and clear of all liens, encumbrances and indebtedness to The Pacific Telephone and Telegraph Company, under the terms and conditions set forth in the agreement dated January 17, 1927, and upon such sale and transfer, to cease furnishing and supplying telephone and telegraph service in the territory in which it now operates.

It is hereby further ordered, that The Pacific Telephone and Telegraph Company be and it hereby is authorized to purchase and acquire the properties of Turlock Home Telephone and Telegraph Company and, upon acquiring such properties, to engage in a telephone and telegraph business in the territory now served by Turlock Home Telephone and Telegraph Company under the rates, rules and regulations heretofore filed by Turlock Home Telephone and Telegraph Company with the Railroad Commission.

The authority herein granted is subject to the following conditions:

1. The consideration of $100,000 being paid by The Pacific Telephone and Telegraph Company shall not be urged as a measure of the value of the properties to be acquired from Turlock Home Telephone and Telegraph Company for any purpose other than the transfer herein authorized.

2. The Commission, in making the order herein reserves the right to determine in this or in any subsequent proceeding, the amount of the purchase price that may be charged to capital account and capitalized through the issue of securities by The Pacific Telephone and Telegraph Company.

3. The Pacific Telephone and Telegraph Company within thirty days after the acquisition of the properties of Turlock Home Telephone and Telegraph Company shall file with the Commission a certified copy of the deed or bill of sale or other instrument of conveyance under which it acquires and holds title to said properties.

Dated at San Francisco, California, this fourth day of February, 1927.

Decision No. 17956.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING TO APPLICANT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE THE RIGHTS, PRIVILEGES AND FRANCHISE GRANTED BY ORDINANCE NO. 100 OF THE BOARD OF SUPERVISORS OF THE COUNTY OF COLUSA.

Application No. 13407.

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Decided February 4, 1927.

CERTIFICATE—ELECTRIC UTILITY—FRANCHISE RIGHTS—TO EXERCISE.—Application granted.

R. W. Ducal, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Pacific Gas and Electric Company asks the Railroad Commission for an order granting applicant a certificate of public convenience and necessity to exercise the rights, privileges and franchise granted by Ordinance No. 100 of the board of supervisors of the county of Colusa.

A public hearing before Examiner Fankhauser was held on January 19, 1927, at which time testimony was introduced and the matter submitted.

It appears that the Pacific Gas and Electric Company has in the past been distributing electric energy in Colusa County under a franchise granted to Northern California Power Company, Consolidated, on August 12, 1911 (Ordinance No. 69 of the board of supervisors of Colusa County), said franchise having been acquired by applicant through the purchase of the properties of Northern California Power Company, Consolidated. This franchise is for a term of fifty years and among other things provides that all construction work must be completed within three years from the date of the franchise. The three-year period has elapsed and therefore applicant has concluded that it should obtain a new franchise in order to erect, construct or maintain lawfully any new or additional electric lines, poles or other structures or facilities in or upon the public highways, streets and roads of Colusa County. On October 19, 1926, the board of supervisors of Colusa County, according to the record in this proceeding, adopted an ordinance (No. 100) granting to Pacific Gas and Electric Company, its successors and assigns, for a term of fifty years from and after the effective date of the ordinance (November 18, 1926) the right, privilege and franchise of erecting, constructing and maintaining electric lines consisting of poles and other suitable structures and wires, crossarms and other appliances installed thereon, including wires for the private telephone and telegraph purposes of applicant, in so many and in such parts of the public highways, streets and roads of said county of Colusa as applicant might elect to use for the purposes specified and of using such electric lines for the purpose of transmitting, distributing and supplying electricity to the public for light, heat, power and all lawful purposes.

A copy of the ordinance is filed in this proceeding as applicant's Exhibit A.

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The testimony shows that no other electric utility is operating in Colusa County. No one appeared at the hearing to protest the granting of this application.

Applicant has filed with the Commission a stipulation authorized by its board of directors to the effect that applicant, its successors or assigns will never claim before the Railroad Commission or before any court or other public body any value for the aforesaid franchise in excess of the amount actually paid by it to the county of Colusa, which cost is reported at $100.

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise by it of the rights, privileges and franchise granted by Ordinance No. 100 of the board of supervisors of the county of Colusa, a public hearing having been held and the Commission being of the opinion that this application should be granted; therefore,

The Railroad Commission hereby declares that public convenience and necessity require and will require the exercise by Pacific Gas and Electric Company of the rights, privileges and franchise granted by Ordinance No. 100 of the board of supervisors of the county of Colusa and that the authority herein granted shall be effective from and after the date of this order.

Dated at San Francisco, California, this fourth day of February, 1927.

DECISION NO. 17957.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION GRANTING TO APPLICANT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE THE RIGHTS, PRIVILEGES AND FRANCHISES GRANTED BY ORDINANCE NO. 206 OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SACRAMENTO; ORDINANCE NO. 40, SERIES B, OF THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, AND ORDINANCE NO. 157 OF THE BOARD OF TRUSTEES OF THE CITY OF ROSEVILLE; AND TO CONSTRUCT THE GAS TRANSMISSION AND DISTRIBUTION SYSTEMS HEREIN DESCRIBED.

Application No. 13409.

Decided February 4, 1927.

CERTIFICATE—GAS UTILITY—FRANCHISE RIGHTS—TO EXERCISE.—Application granted.

R. W. DuVal, for Applicant.

BY THE COMMISSION.

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OPINION.

In this application, Pacific Gas and Electric Company asks the Railroad Commission for an order declaring that public convenience and necessity require and will require the exercise by it of the rights, privileges and franchises granted by Ordinance No. 206 of the board of supervisors of the county of Sacramento; Ordinance No. 40, Series B, of the board of supervisors of the county of Placer and Ordinance No. 157 of the board of trustees of the city of Roseville and to construct a certain gas transmission and distribution facility.

A public hearing was held January 19, 1927, before Examiner Fankhauser, at which testimony was introduced and the matter submitted. No one appeared to oppose the granting of the application.

It appears that Pacific Gas and Electric Company is supplying gas in the cities of Sacramento and North Sacramento. The company now desires to extend its existing gas transmission line from North Sacramento to the city of Roseville, and to install gas distribution facilities along the transmission line and within the city of Roseville. It is in connection with such an extension of facilities that franchises have been secured.

Ordinance No. 206 passed November 8, 1926, by the board of supervisors of Sacramento County grants applicant a franchise to install and maintain gas pipes in that portion of the state highway between the city of Sacramento and the city of Roseville which extends from its intersection with the corporate limits of the city of North Sacramento to its intersection with the northerly boundary line of the county of Sacramento and also in such parts of highways, streets and roads in the vicinity of the state highway as applicant may elect to use.

Ordinance No. 40, Series B, passed October 25, 1926, by the board of supervisors of Placer County grants applicant a franchise to install and maintain gas pipes in that portion of the state highway between the city of Sacramento and the city of Roseville which extends from its intersection with the southerly boundary line of the county of Placer to its intersection with the corporate limits of the city of Roseville, and also in such parts of highways, streets and roads in the vicinity of the state highway as applicant may elect to use.

Ordinance No. 157 passed November 3, 1926, by the board of trustees of the city of Roseville grants applicant a franchise to construct and maintain gas facilities within the city of Roseville.

Each franchise is for a term of fifty years and carries the usual provision for a tax of 2 per cent upon the gross revenue effective five years from date of grant. A certified copy of each of the above franchises is attached to the application.

It appears that the territory which applicant proposes to serve is not now receiving gas service. Applicant estimates the cost of its

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proposed extension exclusive of rights of way at $250,761.95. This estimated cost is made up of the following items:

6⅝" high pressure steel main, 76,570 feet	$99,792 00
Meter house	2,500 00
4½" high pressure steel main, 10,000 feet; 3½" high pressure steel main 8850 feet 2" high pressure steel main, 92,500 feet	63,778 45
2 district regulators and regulator pit	875 00
2 Westinghouse station meters No. 300	7,860 00
Services, 1200	30,900 00
Consumers' regulators, 1200	6,900 00
Consumers' meters in place, 1200	15,300 00
Engineering and supervision	22,796 50
Total	$250,761 95

It is of record that eventually applicant expects to serve from the proposed extension 1920 consumers. It is believed that of this number 1200 can be connected with this system forthwith, while 420 can be added in the next two years, leaving 300 to be secured at some future date. It also appears that service to the territory in question can be supplied without detriment to present and prospective consumers in the areas now supplied with gas service by applicant.

Applicant has filed a stipulation authorized by a resolution of its board of directors to the effect that applicant, its successors or assigns will never claim before the Railroad Commission, or before any court or other public body, any value for the aforesaid franchises in excess of the original cost thereof, said amount being $100 for each of said franchises.

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission of the State of California for an order declaring that public convenience and necessity require and will require the exercise of the rights, privileges and franchises granted to it by the county of Sacramento under Ordinance No. 206; by the county of Placer under Ordinance No. 40, Series B, and by the city of Roseville under Ordinance No. 157, and the construction of the gas transmission and distribution systems described in the application, public hearing having been held, and the Commission being of the opinion that this application should be granted; therefore,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require the exercise by Pacific Gas and Electric Company of the rights, privileges and franchises granted by Ordinance No. 206 of the board of supervisors of the county of Sacramento; Ordinance No. 40 Series B, of the board of supervisors of the county of Placer and Ordinance No. 157 of the board of trustees of the city of Roseville, and the construction of the gas transmission and distribution systems described in the application.

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The authority herein granted shall be effective from and after date of this order.

Dated at San Francisco, California, this fourth day of February, 1927.

DECISION No. 17959.

IN THE MATTER OF THE APPLICATION OF THE IRON MOUNTAIN RAILWAY COMPANY TO DISCONTINUE SERVICE AS A COMMON CARRIER.

Application No. 13400.

Decided February 5, 1927.

ABANDONMENT—COMMON CARRIER SERVICE—STEAM RAILROAD.—Application granted.

C. W. Durbrow, for Applicant.

BY THE COMMISSION.

OPINION.

The Iron Mountain Railway Company, a corporation, has herein petitioned the Railroad Commission for an order authorizing the discontinuance of operation as a common carrier.

A public hearing on this application was conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

Applicant, as justification for the granting of the application, submits the following alleged facts: that applicant's railway was promoted and constructed for the purpose of transporting the copper ores of The Mountain Copper Company, Ltd., at Iron Mountain in Shasta County; that such ores have been practically exhausted for several years or are of such low grade as to preclude their economical extraction; that no other freight of any other kind is available in sufficient quantity to justify maintaining the railroad or continuing its operation; that the Mountain Copper Company, Ltd., by whom the applicant's railroad was built for the specific purpose of transporting its ores, no longer needs said railroad and can not offer an adequate tonnage to meet the operating expenses of said railroad; that there are no parties, other than the said Mountain Copper Company, Ltd., interested in the continuation of the operation of the applicant; that for many years over 99 per cent of the traffic of the applicant originated with The Mountain Copper Company, Ltd., and that for the past three years no freight of any kind has been offered by or transported for the public nor for any other interests, except the said Mountain Copper Company, Ltd.

Applicant's line of railroad extends from Keswick to Iron Mountain, a distance of 11 miles, all in Shasta County. The applicant company

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is a corporation organized July 17, 1895, under the laws of the State of California.

The railroad commenced its operation on or about September 1, 1896.

Wm. S. Kett, president of applicant corporation, testified that the railroad had handled practically no freight, other than ore, for the past five years, and that no tonnage for the public had been handled since the year 1922, during which year a small tonnage was handled for employees of The Mountain Copper Company, Ltd., and for the Pittsburgh-Mount Shasta Mining Company, which company has now suspended operations and now has no employees. The principal business of the line has been the transportation of ore for the Mountain Copper Company, Ltd., but this tonnage no longer is available due to the low grade ore and the present price of copper being adverse to production. The Mountain Copper Company, Ltd., has constructed an aerial tramway which is used for the transportation of material between its Hornet mine and the station of Matheson on the Southern Pacific Company, and this tramway is now used for the transportation required by this company.

The following statement (abstracted from an exhibit filed at the hearing) shows the tonnage transported by this applicant over its railroad for the years indicated and the division between the freight carried for the Mountain Copper Company, Ltd., and the general public:

Year	*Mountain Copper Company, Ltd.*	*Other patrons*	*Total tonnage*
1922	42,675 tons	8 tons	42,683 tons
1923	18,128 tons	0	18,128 tons
1924	0	0	0
1925	10,143 tons	0	10,143 tons
1926	1,464 tons	0	1,464 tons

Although due notice of the hearing was given the public by advertising in a newspaper of general circulation in Shasta County and by posting notice of hearing at all stations on the line of applicant, there was no protest or appearance against the granting of the application.

After full consideration of the evidence and record herein we are of the opinion and hereby find as a fact that public convenience and necessity do not require the continued maintenance and operation of applicant's railroad as a common carrier and that the application should be granted.

ORDER.

The Iron Mountain Railway Company, a corporation, having applied to the Railroad Commission for an order authorizing the discontinuance of service of its line of railroad as a common carrier, a public hearing having been held, the matter having been duly submitted, the

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Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that applicant, The Iron Mountain Railway Company, a corporation, be and the same hereby is authorized to discontinue the maintenance and operation of its lines of railroad between Keswick and Iron Mountain, in the county of Shasta, as a common carrier, said discontinuance of service to become effective when said applicant will have canceled all tariffs and time schedules now lawfully filed with this Commission and will have given ten days' notice of the date of cessation of service, as herein authorized, to the shipping public by posting notices of discontinuance of service at its stations of Keswick and Iron Mountain, in Shasta County.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fifth day of February, 1927.

DECISION No. 17960.

IN THE MATTER OF THE APPLICATION OF MONTEBELLO LAND AND WATER COMPANY, A CORPORATION, FOR A PERMIT TO SELL FIFTY THOUSAND DOLLARS OF ITS FIRST MORTGAGE SIX AND ONE-HALF PER CENT SERIAL GOLD BONDS.

Application No. 13416.

Decided February 5, 1927.

SECURITIES—BONDS—TO ISSUE.—Application granted.

Fogel and Beman, by *M. M. Fogel*, for Applicant.

BY THE COMMISSION.

OPINION.

Montebello Land and Water Company asks permission to issue and sell at 95 and accrued interest $50,000 of its first mortgage 6½ per cent serial gold bonds for the purpose of paying indebtedness and obtaining moneys to extend and improve its water system.

The company alleges that it is engaged primarily in the business of furnishing water to its stockholders residing in Montebello and vicinity.

Applicant as of December 31, 1925, reports its assets and liabilities as follows:

Assets.

Fixed capital	$147,995 79
Cash	724 55
Notes receivable	118 93
Accounts receivable	1,869 37
Materials and supplies	756 17
Prepayments	567 14
Discount on stock	47,186 91
Total	$199,218 85

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Liabilities.

Capital stock	$125,000 00
Notes payable	13,731 41
Accounts payable	362 50
Donations in aid of construction	24,442 98
Reserve for depreciation	30,935 46
Corporate surplus	4,746 50
Total	$199,218 85

Applicant has filed in this proceeding a report signed by Wm. Mulholland (Exhibit F) in which he estimates the value of applicant's properties including water rights, at $400,000. He, however, was not produced as a witness, and his report is so general in its nature that we are unable to give it any consideration.

The company for 1923, 1924 and 1925 reports revenues and expenses as follows:

Item	*1923*	*1924*	*1925*
Gross income	$45,705 17	$44,883 95	$40,334 86
Operating revenues, excluding depreciation	24,117 06	30,503 32	33,686 85
Net operating revenue	$21,588 11	$14,380 63	$6,648 01
Nonoperating revenue	25 79	----------	----------
Gross income	$21,613 90	$14,380 63	$6,648 01
Depreciation	8,302 43	9,236 49	7,302 71
Balance	$13,311 47	$5,144 14	$654 70

[1] Red.

For 1926 the gross income of applicant is reported at $46,497.83 and operating expenses at $32,121.60, leaving a balance of $14,376.23 available for depreciation, interest and surplus.

Applicant reports that it has entered into an arrangement with John M. C. Marble Co. for the sale of $50,000 of serial bonds at 95 per cent of their face value. It proposes to use the proceeds obtained from the sale of the bonds to pay indebtedness and to improve and extend its water system, more fully set forth in the following statement:

To pay and discharge note held by First State Bank of Montebello, covering portion of the expense of the new lines in the business district of Montebello	$4,000 00
To pay balance on notes to Los Angeles Manufacturing Company for new lines installed on Beverly boulevard, Washington avenue, Maple avenue and alley paralleling boulevard to west city limits	5,800 00
To pay and discharge note given to William Driggers for digging in connection with the new lines installed as aforesaid	2,500 00
To pay and discharge the obligation to S. F. Catey for drilling new twenty-inch well	14,850 00
To pay for laying and installing proposed water lines on Beverly boulevard and Washington boulevard	10,000 00
To pay for purchase of pumping equipment for 1¼ mile 14" steel pipe for the new 20-inch well—Byron Jackson bid accepted	5,000 00
For meeting estimated expense of new mains to connect new well with the company's system—actual bid	5,000 00
Miscellaneous	350 00
Total	$47,500 00

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The testimony of Fred H. Howard, president of applicant corporation, shows that it became necessary during 1926 to obtain an additional water supply and it was for that reason that it proceeded with the drilling and equipment of an additional well. His testimony further shows that on account of paving the streets in the territory throughout which applicant operates, it became advisable to relay many of its pipe lines, which necessitated the borrowing of money which it is now needed to pay through the issue of bonds.

Applicant has filed in this proceeding a copy of its proposed mortgage which it intends to execute to the Merchants National Trust and Savings Bank of Los Angeles. The mortgage secures the payment of an authorized bond issue of $100,000, payable serially as follows:

August 1, 1927	$5,000 00	August 1, 1934	$7,000 00
August 1, 1928	5,000 00	August 1, 1935	7,000 00
August 1, 1929	5,000 00	August 1, 1936	7,000 00
August 1, 1930	5,000 00	August 1, 1937	10,000 00
August 1, 1931	5,000 00	August 1, 1938	10,000 00
August 1, 1932	7,000 00	August 1, 1939	10,000 00
August 1, 1933	7,000 00	August 1, 1940	10,000 00

The proposed mortgage is in satisfactory form and we believe that its execution should be authorized.

ORDER.

Montebello Land and Water Company having applied to the Railroad Commission for permission to execute a mortgage and to issue $50,000 of bonds, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of said bonds is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted; therefore,

It is hereby ordered, that Montebello Land and Water Company be and it is hereby authorized to execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed in this proceeding on December 27, 1926, and marked "Applicant's Exhibit B," provided that the authority herein granted to execute said mortgage or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

It is hereby further ordered, that Montebello Land and Water Company be and it is hereby authorized to issue and sell for cash on or before June 30, 1927, at not less than 95 per cent of their face value

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and accrued interest $50,000 of 6½ per cent serial bonds, and use the proceeds for the purpose of paying the indebtedness and extending and improving its water system, as indicated in the foregoing opinion.

It is hereby further ordered, that the authority herein granted to execute a mortgage and issue bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $50 and that applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that within thirty days after the execution of the mortgage herein authorized, Montebello Land and Water Company shall file with the Railroad Commission a certified copy thereof.

Dated at San Francisco, California, this fifth day of February, 1927.

DECISION NO. 17963.

IN THE MATTER OF THE APPLICATION OF POSTAL TELEGRAPH-CABLE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 12926.

Decided February 7, 1927.

SECURITIES - STOCKS—TO ISSUE.—Applicant authorized to issue 500 shares of capital stock at $500 par value per share in lieu of 500 shares of $200 par value per share.

Willard P. Smith, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding Postal Telegraph-Cable Company asks the Railroad Commission to make an order authorizing it to withdraw and cancel its present outstanding capital stock consisting of 500 shares of the par value of $200 each and the aggregate par value of $100,000, and to issue in lieu thereof 500 shares of common capital stock of the par value of $500 each and the aggregate par value of $250,000.

The Postal Telegraph-Cable Company was organized on or about June 23, 1908. It appears that on September 29, 1925, the authorized capital stock of the company was increased from $100,000 of common stock, consisting of 500 shares of the par value of $200 each, to $250,000, consisting of 500 shares of the par value of $500 each. The present request for permission to issue stock, then, involves the issue of all

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the authorized capital stock and results in an increase in the total capitalization of $150,000.

The record shows that all of applicant's outstanding stock, except seven shares held by directors, is owned or controlled by The Mackay Companies, and that that organization advances to its subordinate companies, including applicant, funds needed for the construction of additions, betterments and extensions.

Applicant as of June 30, 1926, reports assets and liabilities as follows:

Assets.

Plant account	$1,992,825 00
Due from stations and agents	269,108 26
Supplies on hand	5,850 67
Accounts receivable	63,286 40
Cash in bank	229,653 92
Profit and loss deficit	7,160 61
Total	$2,567,884 86

Liabilities.

Capital stock	$250,000 00
Accounts payable	3,940 58
Due to system corporations	571,119 28
Due Mackay Companies for moneys advanced	1,742,825 00
Total	$2,567,884 86

In making the present application the company reports that The Mackay Companies will hold, or control, all of the stock. It appears, however, that applicant intends to require the subscriber to make an initial payment equal in amount to 10 per cent only of the par value of the stock, the balance to be paid from time to time when called for by its board of directors. We will not permit the issue of the stock under such a condition.

ORDER.

Postal Telegraph-Cable Company having applied to the Railroad Commission for an order authorizing the issue of stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be paid or provided through the issue of such stock is reasonably required for the purpose specified herein, and that such purpose is not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Postal Telegraph-Cable Company be and it hereby is authorized to withdraw and cancel its present outstanding common capital stock of $100,000, consisting of 500 shares of the par value of $200 each, and to issue on or before June 30, 1927, subject to the terms and conditions of this order, and not otherwise, $250,000

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of common capital stock consisting of 500 shares of the par value of $500 each.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized to be issued, $100,000 may be issued in exchange for a like amount of stock now outstanding and $150,000 may be issued only upon receipt by applicant of $150,000 in cash, which cash shall be used to pay indebtedness, or upon the cancellation by The Mackay Companies or system corporations of indebtedness in the amount of $150,000, the cancellation of such debt being a condition precedent to the issue of said $150,000 of stock.

2. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this seventh day of February, 1927.

DECISION No. 17964.

IN THE MATEER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR AN ORDER AUTHORIZING READJUSTMENT OF SWITCHING CHARGES ON FREIGHT, CARLOADS, IN THE CITY OF RICHMOND.

Application No. 13144.

Decided February 7, 1927.

RATES—STEAM RAILROAD—INTRAYARD SWITCHING—ZONES.—Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company authorized to establish intrayard switching rates and zones.

A. L. Whittle and *C. N. Bell*, for Southern Pacific Company.

A. L. Whittle and *F. H. Rockwell*, for The Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMISSION.

OPINION.

This is a joint application of the Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company, hereinafter referred to as Southern Pacific and Santa Fe, for authority to make certain changes in the rates for intrayard switching and to redefine the switching limits at Richmond by establishing zones as specifically set forth in Exhibits "A" and "B" of the Southern Pacific and "C" and "D" of the Santa Fe, attached to and made a part of the application.

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A public hearing was held before Examiner Geary at San Francisco November 30, 1926, and the matter having been duly submitted is now ready for an opinion and order.

The present switching limits of the Southern Pacific, as published in Tariff 230-I, C. R. C. 2826, Item 3180-B, may be roughly described as follows:

> From north line of Cutting boulevard to a point 770 feet north of San Pablo station on the main line, also tracks owned by the Richmond Belt Railway and serving Blake Bros. Quarry, also all tracks serving Standard Oil Company's plants.

The present rate is 34 cents per ton, minimum $7.20 per car, for movement between all intrayard points within these defined limits, except on carloads received from the Santa Fe in connection with a yard movement by that line, when the charge is $3.60 per car in addition to the Santa Fe's charge.

The Southern Pacific proposes to establish six zones and to restrict the 34 cents per ton rate, minimum $7.20 per car, to apply between points exclusively within zones designated as 1, 2 and 3. The first extends from the north line of Cutting boulevard to a point 770 feet beyond San Pablo station on the main line, to and including the northerly connection with tracks serving Standard Oil Company's asphalt plant on the Richmond Belt Railway; the second extends from Kelsey avenue to and including wharf tracks at Point Orient; the third extends from Standard Oil Company's asphalt plant to and including tracks serving Blake Bros. Quarry. The maximum distance between points within these three zones is approximately 6.3 miles.

The limits of the fourth zone extend from Cutting boulevard to a point 770 feet north of San Pablo station and to Kelsey avenue on the Richmond Belt Railway, also to and including Point Orient, but does not include connection with tracks serving Standard Oil Company's asphalt plant. The proposed rate is 45 cents per ton, minimum $11 per car, for a maximum distance approximating 9.2 miles.

The proposed rate for the fifth zone is 54 cents per ton, minimum $11 per car, except on carloads of rock, sand and gravel, upon which a rate of 50 cents per ton, minimum $11 per car, is proposed. The switching limits of this zone are practically the same as now published in Item 3180-B, Southern Pacific Tariff 230-I, with the exception it does not include wharf tracks at Point Orient. The maximum distance between points within zone 5 is approximately 11.8 miles.

The sixth zone extends from Kelsey avenue to and including all points on the Richmond Belt Railway, with the exception of wharf tracks at Point Orient, and the rate proposed is the same as that proposed for zone 4.

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It is proposed to cancel application of rates shown in Items 1320 and 1330, series of Southern Pacific Tariff 230-I, in so far as same applies at Richmond and publish new provisions defining the limits for switching cars when originating within switching limits of connecting line. The proposed limits to be established in place of those defined in Item 1320 series are as follows:

> From Cutting boulevard to a point 770 feet north of San Pablo station on the main line and to a point 260 feet east of Castro street on the Richmond Belt Railway to interyard tracks with the Santa Fe.

It is also proposed to amend Item 1260, series of Southern Pacific Tariff 230-I, which provides for switching carload freight subsequent to initial placement for unloading, by establishing three separate and defined zones, as follows:

1. From north line of Cutting boulevard to a point 770 feet north of San Pablo station on the main line to and including northerly connection with track serving Standard Oil Company's asphalt plant on Richmond Belt Railway.

2. On Richmond Belt Railway from Kelsey avenue to and including wharf tracks at Point Orient.

3. On Richmond Belt Railway from Blake Bros. Quarry to but not including northerly connection with tracks serving Standard Oil Company's asphalt plant.

Rate of $3.50 per car will apply within each of these zones for a subsequent switching movement and between all other points within the switching limits the rate will be $4.75 per car.

The present switching limits of the Santa Fe, designated as districts A and B, are shown in Supplement 24 to Santa Fe Tariff, C. R. C. 542, as follows:

> (A) From, and including, Ferry Point, on the west; east on the main line, including all spurs and side tracks to, and including Mile Post 1186, on the east; on the Oakland Branch to and including, Pullman Company on the south (includes substations Rheem and San Pablo, Cal.).
>
> (B) All points located on the Richmond Belt Ry. Co., including Standard Oil Company's tracks.

The switching rates and charges effective within these limits are the same as those published by the Southern Pacific. The present rate of 34 cents per ton, minimum $7.20 per car, will be restricted to apply between points exclusively within zones designated as 1, 2 and 3. The first includes the district from mile post 1186 to and including Ferry Point and to Thirty-fifth street on the Oakland Branch, also to and including Standard Oil Company's asphalt plant. The second extends from a point near Sanford avenue, on the north; to Ferry Point, on the south, and to Second street, on the east; also to Point Orient, on the west. The third extends from Blake Bros. Quarry to but not including the tracks serving Standard Oil Company's asphalt plant.

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The limits of zone 4 extend from and include Blake Bros. Quarry and all points on Richmond Belt Railway except tracks serving the wharf at Point Orient, on the west, to a point near Sanford Avenue, on the north; to and including Ferry Point, on the south, also includes the west side of Second street on the Oakland Branch. The maximum distance between points in this zone is approximately 9 miles and rate of 45 cents per ton, minimum $11 per car, is proposed.

The proposed rate for zone 5 is also 45 cents per ton, minimum $11 per car, for a maximum distance approximating 8.4 miles. The limits extend from Point Orient, on the west, to mile post 1186, on the north, thence east to Thirty-fifth street on the Oakland Branch.

The limits of the sixth zone extend from Blake Bros. Quarry, on the west, to mile post 1186, on the north; to Thirty-fifth street, on the east. The distance between the two farthest points is approximately 11 miles. Rate of 54 cents per ton, minimum $11 per car, is proposed, except on rock, sand and gravel, upon which rate of 50 cents per ton is proposed.

The limits of the seventh zone extend from mile post 1186, on the north, to Ferry Point, on the south; east to Thirty-fifth street on the Oakland Branch and on the west side of the main line to a point 500 feet east of Castro street to interchange tracks with Southern Pacific. The present and proposed rate is 34 cents per ton, minimum $7.20 per car, applicable only on carload freight destined to industries, wharves and private sidings within switching limits of the Southern Pacific.

The limits of the eighth zone are similar in all respects to the limits shown in connection with the seventh zone, but rate applies from interchange tracks with the Southern Pacific to industries, wharves and private sidings located on the Santa Fe; the present rate of $3.60 per car is to remain in effect.

The Santa Fe also proposes to amend Item 540 of Tariff C. R. C. 542, which provides for switching carload freight subsequent to initial placement for loading, by establishing seven zones described in Exhibit "C" as Districts A, B, C, D, E, F and G. The limits of these districts correspond with the limits of zones designated as 1 to 7, inclusive, in the order named and as heretofore described. It is not proposed to change the present rate of $3.60 per car for a subsequent switch movement between points within districts designated as A, B and C, but for a subsequent switch movement between points within districts designated as D, E, F and G a rate of $4.75 per car is proposed.

Witness for applicant testified that all tracks owned by the Richmond Belt Railway are included within the switching limits, and all switching service is performed by the Southern Pacific and Santa Fe during alternate periods; that the proposed changes have been made necessary by an extension constructed by the Belt Railway during the

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year 1925 from Winehaven to Blake Bros. Quarry. This extension is approximately 6100 feet in length. Service over this new extension was commenced during the early part of the year 1926.

The Santa Fe filed an informal application November 4, 1925, and the Southern Pacific an informal application December 3, 1925, requesting authority under section 63 of the Public Utilities Act to adjust the switching charges and limits to the basis as set forth in the applications, but due to the fact that the adjustments sought were general in effect, an informal authorization was denied.

Applicant, Southern Pacific, presented an exhibit comparing the proposed rates at Richmond of 34, 45 and 54 cents per ton, with the rates of 34, 45 and 63 cents per ton at San Francisco, Oakland and Richmond. The 63-cent rate is at San Francisco and involves a zone of 13.3 miles as compared with 54 cents at Richmond for 11.8 miles. The rates at San Francisco, Oakland and Los Angeles are the result of our decision in Application No. 6390, May 12, 1921 (19 C. R. C. 856). In that decision Commissioner Loveland said:

> In all three proceedings the South San Francisco Chamber of Commerce (the complainant) directed much of its testimony, exhibits and briefs to the contention that there should be but one uniform rate between all points within the San Francisco switching limits and this without any regard to the length of the haul or the character of the territory through which the traffic moved. With this contention I can not agree, for there must be a limit to the distance a rate of fixed volume will carry, some point where the intrayard switching rate must break, otherwise it would be automatically extended with the expansion of industrial territories and the growth of our cities. This is illustrated at Oakland, where the original intrayard switching limit was 4.3 miles under a 25-cent rate, extended to 7 miles and then to 10.8 miles. There are now many factories south of Elmhurst and it would be no violent stretch of the imagination to picture, in the years to come, industrial zones extending without break for thirty or forty miles from the centers of San Francisco, Oakland and Los Angeles; a blanket rate for such a zone manifestly would not be considered and certainly could not be defended. The testimony shows that intrayard switching charges are based on distances at Seattle, Spokane and Portland, also at practically all centers throughout the United States.

The Richmond situation is identical to San Francisco, Oakland and Los Angeles and manifestly could have been adjusted at the same time.

No concrete figures were submitted to show the cost of service, although testimony was presented in a general way to the effect that the per car was greater at Richmond than at either San Francisco or Oakland. This higher cost is due to the fact that the volume of traffic handled in the yards at the latter points greatly exceeds the traffic handled in the Richmond yards.

There were no appearances in opposition to the granting of the petition, but on the other hand some twenty-five letters advising carriers that the shippers had no objection to the proposed changes were filed as exhibits.

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Upon consideration of all the facts of record, we find that applicants' present rates for intrayard switching at Richmond are unjust and unreasonable and that the just and reasonable rates are those shown in Exhibit "A" of the Southern Pacific and Exhibit "C" of the Santa Fe, attached to and made a part of the application. The application will be granted.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order and which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the applicants, Southern Pacific Company, and The Atchison, Topeka and Santa Fe Railway Company, be and they hereby are authorized to establish the intrayard switching rates and zones shown in Exhibit "A" of Southern Pacific Company and Exhibit "C" of The Atchison, Topeka and Santa Fe Railway Company attached to and made a part of the application.

Dated at San Francisco, California, this seventh day of February, 1927.

DECISION No. 17974.

IN THE MATTER OF THE APPLICATION OF H. T. ROBINSON, DOING BUSINESS UNDER THE NAME AND STYLE OF OCEAN PARK HEIGHTS LAND AND WATER COMPANY, TO SELL, AND OF OCEAN PARK HEIGHTS WATER COMPANY, A CORPORATION, TO PURCHASE A WATER SYSTEM, AND TO ISSUE BONDS AND STOCK IN PAYMENT THEREFOR AND FOR OTHER PURPOSES.

Application No. 13100.

IN THE MATTER OF THE APPLICATION OF H. T. ROBINSON, OPERATING UNDER THE NAME AND STYLE OF OCEAN PARK HEIGHTS LAND AND WATER COMPANY, TO EXERCISE FRANCHISE RIGHTS.

Application No. 13198.

Decided February 8, 1927.

CERTIFICATE—WATER UTILITY—FRANCHISE RIGHTS—TO EXERCISE.—Certificate granted to H. T. and Annie D. Robinson to exercise franchise rights for the operation of a water utility under the name of Ocean Park Heights Land and Water Company.

TRANSFER—STOCK—TO ISSUE.—H. T. and Annie D. Robinson authorized to transfer said water system to Ocean Park Heights Water Company, and the latter corporation authorized to issue $125,000 of common stock and $100,000 of twenty-year bonds in payment therefor and to finance additions and betterments.

McAdoo, Neblett and O'Connor, by *W. H. Neblett* and *H. B. Neblett*, for Applicant.
Thomas R. Lynch, in propria persona.

BY THE COMMISSION.

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OPINION.

In Application No. 13198, H. T. Robinson, operating under the name and style of Ocean Park Heights Land and Water Company, asks the Railroad Commission to make an order declaring that public convenience and necessity require the exercise by applicant of rights and privileges granted by the board of supervisors of Los Angeles County by Ordinances No. 808, No. 809, No. 860 and No. 1246, New Series.

In Application No. 13100, the Railroad Commission is asked to make an order authorizing H. T. Robinson and Annie Del Segno Robinson, his wife, to transfer a public utility water system known as the Ocean Park Heights Land and Water Company to Ocean Park Heights Water Company, a corporation, and authorizing the corporation to issue stock and bonds in the amounts and for the purposes to which reference is hereafter made.

A public hearing on the two matters was held before Examiner Fankhauser on October 8, 1926, at which time they were consolidated for the purposes of receiving evidence and for decision. On December 31, 1926, there was filed with the Commission a copy of the corporation's proposed deed of trust and also an amended petition in Application No. 13100. The matters are now ready for decision.

The Ocean Park Heights Land and Water Company, operated by H. T. Robinson, supplies water in an area lying between Culver City and that portion of the city of Los Angeles formerly comprising the city of Venice, approximately eleven miles west of the business center of the city of Los Angeles, containing a population reported at about 4000. It is reported that the business is being conducted by virtue of four franchises granted by the board of supervisors of the county of Los Angeles, as follows:

Franchise Ordinance No. 808, New Series, granted to Ocean Park Heights Land and Water Corporation, a corporation.

Franchise Ordinance No. 809, New Series, granted Ocean Park Heights Land and Water Company, a corporation.

Franchise Ordinance No. 860, New Series, granted to Ocean Park Heights Land and Water Company.

Franchise Ordinance No. 1246, New Series, granted to H. T. Robinson.

It is of record that Ordinances No. 808 and No. 809 were granted to Ocean Park Heights Land and Water Company, a corporation, in error and that this error was corrected by Ordinance No. 860.

It does not appear that the Commission has ever been asked to make an order, as required by section 50 (*b*) of the Public Utilities Act, declaring that public convenience and necessity required the exercise of the rights and privileges granted by these ordinances. In this connection, however, applicants report in Application No. 13198 that for

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many years prior to the granting of the franchises the predecessors in interest of the water system operated a public utility in the general territory described in the franchises, and that later the franchises were obtained to prevent invasion of the territory by other operators, and that the applicants were not aware that a certificate of public convenience and necessity from the Railroad Commission was required. When the matter was brought to their attention, however, the present application, No. 13198, was filed for a certificate covering the exercise of such rights and privileges as were acquired.

At the hearing Thomas R. Lynch, appearing on his own behalf, protested the granting of Application No. 13198 in so far as it involved the extension of the service of Ocean Park Heights Land and Water Company or its successor into a tract of land known as No. 8282, containing about thirteen acres situated west of Sawtelle boulevard. Applicants agreed that they would not extend their system into said tract. It appears from the record that there are other tracts covered by the franchises to which reference has been made which are not now being served by applicants. There has not been submitted sufficient evidence to warrant the Commission in concluding that public convenience and necessity require applicants to extend their operations into tracts which are not now being served by them or to extend their system in such a way as to interfere with the operations of other water plants. We therefore will authorize applicants to exercise the rights and privileges granted by the several ordinances only to the extent that it is necessary to construct, maintain and operate a water system for the purpose of selling water to consumers residing in tracts now served by applicants. We will not authorize applicants to exercise said rights and privileges for the purpose of competing with other systems or extending their system into tracts not now served by them.

Referring to the physical properties, it appears that the water supply at present is obtained from a twelve-inch well 252 feet deep, and from a fourteen-inch well 200 feet deep. In addition, the utility has three other wells not now equipped with pumps, but which, it is said, can be placed in service in case of need. Water is pumped from the two operative wells by deep well turbine pumps into concrete settling basins and is then pumped by booster pumping units directly into the distribution mains, any surplus water being discharged into storage tanks located on a hill above the service area, where storage of a total capacity of 106,000 gallons is provided by concrete and redwood stave tanks. The distribution system consists of about forty-two miles of pipe, ranging in diameter from one to eight inches, supplying 815 services, of which 798 are metered. The pressure in the service area ranges from 25 to 60 pounds per square inch, dependent on elevation.

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In Exhibit "F," Application No. 13100, The Loveland Engineers, Inc., report the estimated original cost of the properties involved in this application on December 31, 1925, at $288,399; the estimated reproduction cost new at $283,541, and the estimated reproduction cost less accrued depreciation at $254,489. F. H. Van Hoesen, an assistant engineer for the Railroad Commission, in the Commission's Exhibit No. 1, reports the estimated reproduction cost new, depreciated, of the properties as of October 1, 1926, at $203,988. Representatives of applicants did not, though they were given an opportunity, cross-examine Engineer Van Hoesen. The $203,988 is made up of the following items:

Organization	$500 00
Franchises	1,181 00
Landed capital	21,875 00
Buildings, structures, grounds	3,213 00
Wells	2,475 00
Pumping equipment	7,722 00
Purification equipment	393 00
Distribution mains	140,140 00
Distribution reservoirs	3,736 00
Fire hydrants, etc.	390 00
Services	6,712 00
Meters	10,367 00
Miscellaneous distribution equipment	400 00
General office equipment	4,884 00
Total	$203,988 00

Applicants stated that for the purpose of this proceeding they had no objection to the Commission considering in evidence the report of F. H. Van Hoesen and that they had no cross-examination on the report.

It is proposed to improve the present system by an expenditure of $20,000 for the following purposes:

50,000-gallon capacity steel tank and tower	$6,000 00
Additional pumping equipment, electrical control apparatus and wiring, pipe connections, etc., to be installed at one of the wells which are at present nonoperative	3,500 00
Distribution pipe lines	7,500 00
Meters and services	3,000 00
Total	$20,000 00

It is reported that there has been a substantial increase in the business of the Ocean Park Heights Land and Water Company since 1914, at which time there were approximately seventy service connections. For the year ending December 31, 1921, the number of service connections is reported at 224; for 1922 at 272; for 1923 at 336; for 1924 at 572; for 1925 at 738; and on May 31, 1926, at 815.

Applicants in Exhibit "E" report operating revenues for the twelve months ending July 31, 1926, at $24,137.25; and operating expenses, exclusive of depreciation, of $9,262.02, leaving net revenues of $14,875.23. The depreciation charges are estimated at $3,992.34, leav-

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ing $10,882.89, after deducting depreciation charges. For the year ending December 31, 1926, the net revenue before depreciation is estimated at $15,000 and the net revenue after depreciation at $11,000. It is of record that it is desirable and for the benefit of the public served by the public utility properties of H. T. Robinson and Anna Del Segno Robinson, operating under the name and style of Ocean Park Heights Land and Water Company, that the said properties be transferred to Ocean Park Heights Water Company. It is believed that because of the rapid growth of the business of the water system additional facilities must be constructed and that the acquisition and construction of such facilities can be more readily financed through a corporation than by individuals. H. T. Robinson and Annie Del Segno Robinson, his wife, have agreed to sell their properties, referred to herein, to the Ocean Park Heights Water Company, provided said company pay therefor the proceeds realized from the sale of $80,000 of 6½ per cent twenty-year bonds, and such amount of preferred and/or common stock as may be authorized by the Railroad Commission.

The corporation asks permission to execute a mortgage or deed of trust in substantially the same form as that filed on December 31, 1926, and marked Exhibit "H," to secure the payment of an authorized bond issue of $500,000. At this time it asked permission to issue and sell $100,000 of 6½ per cent twenty-year bonds secured by said mortgage, at 92, or on a basis of about 7¼ per cent. The mortgage specifies the purposes for which the $92,000 may be expended, some of which purposes are, and others may be, as the mortgage is now drawn, at variance with the purposes recited in the petition in this proceeding. In the petition the corporation asks that it be permitted to use the proceeds from the sale of $80,000 of bonds to pay in part for the properties it intends to acquire and use the proceeds from the remaining $20,000 of bonds for the purposes mentioned above. The proposed mortgage (section 21), however, provides that the proceeds from the sale of the $100,000 of bonds shall be disbursed by the trustee for the following purposes and no other:

1. $68,600 to H. T. Robinson and Annie Del Segno Robinson, his wife, in part payment of the purchase price of the plant and properties acquired from H. T. Robinson and Annie Del Segno Robinson, his wife, doing business under the fictitious firm name and style of Ocean Park Heights Land and Water Company.

2. To the water company such amount as may be authorized by the Railroad Commission of the State of California for organization expenses, not exceeding, however, the sum of $5,000.

3. To the water company an amount sufficient to reimburse it for expenditures actually made by it for additions, improvements and

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betterments made to the plant and properties described herein between the time of the acquisition by the water company of the said plant and properties and the date of the indenture.

4. The balance remaining to be disbursed by the trustee solely for the purpose of reimbursing the water company for expenditures actually made by it subsequent to the date of the indenture for additions, improvements and betterments approved by Freeman, Smith & Camp Company, the proposed purchaser of the $100,000 of bonds, to the water company's property, subject to the limitations of this section. In our opinion we have no authority to authorize the expenditure of bond proceeds for purposes stated so generally as they are in the proposed mortgage or deed of trust, nor will we authorize the execution of a mortgage containing such provisions.

The proposed mortgage contains other provisions that do not meet with our approval. Thus it provides that after the issue of the initial series "A" bonds of $100,000, no additional bonds may be authenticated except upon the receipt of the trustee of the written approval of Freeman, Smith & Camp Company; that the water company will have its books audited by some certified public accountant approved by the trustee and by Freeman, Smith & Camp Company; that it will furnish a report of each such audit to Freeman, Smith & Camp Company; that it will annually have its properties examined by an engineer approved by Freeman, Smith & Camp Company; that it will furnish a copy of his report to said Freeman, Smith & Camp Company; that it will furnish monthly financial statements to Freeman, Smith & Camp Company; that it will on or before November 20, 1927, and annually thereafter, pay to the trustee a sum in cash equal to at least 3 per cent of the maximum amount of bonded indebtedness of the company at any time outstanding and that all moneys paid for the account of the sinking fund shall be applied by the trustee to the purchase through Freeman, Smith & Camp Company of bonds secured by the indenture, at not exceeding the current market price thereof or the current redemption price of the respective series, if they shall be redeemable by their terms, and accrued interest; that any money obtained from the sale of property may be invested in new property with the approval of Freeman, Smith & Camp Company.

The Commission has heretofore refused to authorize the execution of open end mortgages containing provisions similar to those just recited. We will likewise refuse to grant Ocean Park Heights Water Company permission to execute a mortgage such as that filed in this proceeding on December 31 (Exhibit "H"), or any other mortgage containing provisions similar to those noted. Moreover, the proposed mortgage should be modified so that the sinking fund payments be

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calculated on the amount of bonds actually outstanding on the thirty-first day of October of each year, assuming the sinking fund payment is due on or before November 20 of each year; so that depreciation be not included in operating expenses for the purpose of determining the net income of the company as that term is used in section 26 of the trust indenture and so that the bonds be payable in gold coin of the United States of America of or equal to the standard of weight and fineness in effect on the date of the trust indenture. Ocean Park Heights Water Company should submit a revised copy of its mortgage.

We will not authorize Ocean Park Heights Water Company to issue bonds on a 7¼ per cent basis on a record such as we have in this proceeding. If these properties can not be financed on a better basis, we believe that no advantage will accrue to the consumers through the proposed bond issue. The order herein will permit the company to issue $100,000 of 6 or 6½ per cent twenty-year bonds and authorize their sale on a basis of 6¾ per cent, as provided in said order. It will also authorize the issue of $125,000 of common stock. No evidence was submitted showing the necessity for the issue of any preferred stock.

ORDER.

H. T. Robinson and Annie Del Segno Robinson, his wife, operating a public utility water system under the name and style of the Ocean Park Heights Land and Water Company, having asked permission to exercise franchise rights and to transfer public utility properties to the Ocean Park Heights Water Company and said company having asked permission to purchase said properties and issue stocks and bonds, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the requests of applicants should be granted as herein provided, and that the money, property or labor to be procured or paid for by the issue of the stocks and bonds herein authorized is reasonably required by Ocean Park Heights Water Company, and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income; therefore,

The railroad commission hereby declares that public convenience and necessity require the exercise by H. T. Robinson and Annie Del Segno Robinson, his wife, operating a public utility water system under the name and style of the Ocean Park Heights Land and Water Company, of the rights and privileges conferred by Ordinance No. 808, No. 809, No. 860, and No. 1246, New Series, of the county of Los Angeles, provided that they shall first have filed with the Railroad Commission a stipulation declaring that they, their successors and assigns will never claim before the Railroad Commission or any court or other public body a value for said rights and privileges in excess

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of the amount actually paid the county of Los Angeles as the consideration of the granting of such rights and privileges, which amount shall be set forth in the stipulation, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation has been filed in form satisfactory to the Railroad Commission; and provided further that the rights and privileges granted by such ordinances may be exercised only to the extent that it is necessary to construct, maintain and operate a water system for the purpose of selling water to consumers residing in tracts now served by said applicants;

It is hereby ordered, that H. T. Robinson and Annie Del Segno Robinson, his wife, doing business under the name and style of Ocean Park Heights Land and Water Company, be and they are hereby authorized to transfer their public utility water system, and assets described in Exhibit "F," Application No. 13100, to Ocean Park Heights Water Company, a corporation, which is hereby permitted to acquire said public utility water system and assets.

It is hereby further ordered, that Ocean Park Heights Water Company be and it hereby is authorized to issue $125,000 of its common stock and $100,000 of 6 or 6½ per cent twenty-year bonds. Said stock and the proceeds obtained from the sale of $80,000 of bonds, which bonds shall be sold on a 6¾ per cent basis or better, may be used by applicant to pay for the properties to be acquired from H. T. Robinson and Annie Del Segno Robinson, his wife. The proceeds obtained from the sale of $20,000 of bonds, which bonds shall be sold on a 6¾ per cent basis, shall be used to pay the cost of the improvements referred to in the foregoing opinion, provided that the authority herein granted to issue said $100,000 of bonds will not become effective until the Commission has authorized Ocean Park Heights Water Company to execute a mortgage or deed of trust to secure the payment of said bonds, nor until the company has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $100.

It is hereby further ordered, that Ocean Park Heights Water Company shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that within thirty days after the transfer of the properties referred to herein, Ocean Park Heights Water Company shall file with the Commission a certified copy of all instruments by virtue of which it acquired and holds title to said properties

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and shall also advise the Commission of the exact date on which it took possession of the properties.

It is hereby further ordered, that the authority herein granted to transfer properties and issue stock will become effective twenty days after the date hereof, and that none of the stock or bonds herein authorized to be issued may be issued after June 30, 1927.

Dated at San Francisco, California, this eighth day of February, 1927.

DECISION No. 17975.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, LESSEE, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION APPROVING A CERTAIN AGREEMENT ENTERED INTO BY AND BETWEEN APPLICANT AND EMMA ROSE AND THE HOBART ESTATE COMPANY, OPERATING AS THE UTICA MINING COMPANY, DATED DECEMBER 2, 1926.

Application No. 13395.

Decided February 8, 1927.

RATES—ELECTRIC UTILITY—WHOLESALE.—Agreement covering rates for power for resale approved.

BY THE COMMISSION.

OPINION.

This is an application of Pacific Gas and Electric Company for an order approving a certain agreement dated December 2, 1926, made and entered into by and between applicant and Emma Rose and the Hobart Estate Company, operating as the Utica Mining Company. A copy of this agreement, marked Exhibit "A," is attached to the application.

Extended negotiations have been had before the Railroad Commission in an informal proceeding between the parties to this agreement and the Commission is fully apprised of the conditions that led to the consummation of the agreement.

The agreement provides that applicant shall serve the Utica Company under its regular filed Schedule P-6, but incorporates special features not covered in the schedules on file with the Commission. The term of agreement is made for a period of nine years from and after the first day of January, 1926, and it is also especially provided in the agreement that the Utica Company shall purchase from the Pacific Gas and Electric Company all electric energy that shall be required by the Utica Company for sale by it to its own consumers. The agreement further provides that any energy and demand registered during such times as the two systems are not in parallel operation, due to the fault of the Pacific Gas and Electric Company, are not to be considered

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in the charges to the Utica Company. It is further provided that the initial demand of the Utica Company shall not exceed 3000 kilowatts.

The agreement is at all times subject to such changes and modifications as the Railroad Commission of the State of California may direct in the exercise of its jurisdiction. The special features of the agreement already referred to, which are not covered by applicant's schedules on file with the Commission, are found to be reasonable.

The Commission is of the opinion that the agreement is fair to both parties and that a public hearing in this proceeding is not necessary.

ORDER.

The Pacific Gas and Electric Company having applied to this Commission for an order approving a certain agreement entered into between applicant and the Hobart Estate Company and Emma Rose, operating as the Utica Mining Company, on Decmeber 2, 1926, the Commission having considered the matter and being of the opinion that a public hearing is not necessary;

It is hereby ordered, that the above mentioned agreement (designated Exhibit "A" in the application) between Pacific Gas and Electric Company and the Hobart Estate Company and Emma Rose, operating as the Utica Mining Company, be and the same is hereby approved.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this eighth day of February, 1927.

DECISION NO. 17976.

IN THE MATTER OF THE APPLICATION OF HOBART ESTATE COMPANY, A CORPORATION, AND EMMA ROSE, OPERATING AS THE UTICA MINING COMPANY, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA APPROVING A CERTAIN AGREEMENT MADE AND ENTERED INTO BY AND BETWEEN APPLICANTS AND PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, DATED DECEMBER 2, 1926.

Application No. 13410.

Decided February 8, 1927.

RATES—ELECTRIC UTILITY—SURPLUS POWER.—Agreement for sale of surplus power of Utica Mining Company's system to Pacific Gas and Electric Company approved.

BY THE COMMISSION.

OPINION

This is an application of Hobart Estate Company and Emma Rose, operating as the Utica Mining Company, for an order approving a certain agreement, dated December 2, 1926, made and entered into by and between applicants and Pacific Gas and Electric Company. A copy

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of this agreement, marked Exhibit "A," is attached to the application.

This agreement has been the subject of extended negotiations between the parties thereto, before the Railroad Commission in an informal proceeding, and the Commission is fully advised as to the conditions leading up to the final agreement.

It is provided in the agreement, which is made for a term of nine years from and after the first day of January, 1926, that Pacific Gas and Electric Company shall purchase from applicants, at their Angel's substation in Calaveras County, surplus electric energy at approximately 17,000 volts in an amount not to exceed 1,350,000 kilowatt hours per month nor more than 16,000,000 kilowatt hours per year at a rate of $0.0045 per kilowatt hour.

It is further provided that in the event the existing Schedule P-6 of Pacific Gas and Electric Company is revised or superseded by other schedules whereby the cost of electric energy furnished by Pacific Gas to Utica Company for resale purposes is changed, that the rate of $0.0045 per kilowatt hour shall be decreased or increased, as the case may be, in the same proportion as the cost of electric energy, under said Schedule P-6, shall have been decreased or increased; provided, that in no event shall such rate be less than $0.004, nor greater than $0.005 per kilowatt hour.

The agreement is at all times subject to such changes and modifications as the Railroad Commission of the State of California may direct in the exercise of its jurisdiction. In view of the fact that the agreement covers the sale of surplus electric energy that might otherwise be wasted, the Commission feels that the special conditions involved are reasonable.

The Commission is of the opinion that the agreement is fair to both parties and that a public hearing in this proceeding is not necessary.

ORDER.

The Hobart Estate Company and Emma Rose, operating as the Utica Mining Company, having applied to this Commission for an order approving a certain agreement entered into between applicants and Pacific Gas and Electric Company, dated December 2, 1926, the Commission having considered the matter and being of the opinion that a public hearing is not necessary;

It is hereby ordered, that the above mentioned agreement (designated Exhibit "A" in the application) between the Hobart Estate Company and Emma Rose, operating as the Utica Mining Company, and the Pacific Gas and Electric Company, be and the same is hereby approved.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this eighth day of February, 1927.

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Decision No. 17977.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING AMENDMENT TO ITEM 410-C OF APPLICANT'S G. F. D., CIRCULAR NO. 199-E, C. R. C. NO. 2711.

Application No. 13199.

Decided February 8, 1927.

RATES—STEAM RAILROAD—ROUTING CHANGES.—Southern Pacific Company authorized to amend Item 410 of G. F. D., Circular No. 199-E, C. R. C. No. 2711, restoring rates and routes in effect prior to tariff publication errors.

James E. Lyons and *A. L. Whittle*, by *A. L. Whittle*, for Applicant.
C. S. Connolly, for Albers Bros. Milling Company.
N. E. Keller, for Pacific Portland Cement Company, Cons.
E. W. Hollingsworth, for Oakland Chamber of Commerce.
J. C. Sommers, for Stockton Chamber of Commerce.
R. P. McCarthy, for Globe Grain and Milling Company, and Phillips Milling Company.
E. B. Smith and *M. J. McCarthy*, for Sperry Flour Company.

BY THE COMMISSION.

OPINION.

This is an application of the Southern Pacific Company under section 63 of the Public Utilities Act to amend the first block of Item 410-C, G. F. D. Routing Circular 199-E, C. R. C. 2711, now reading "Sacramento, Cal., and points beyond via Davis or Roseville, Cal., including branches," to read "Sacramento, Cal., and points beyond via Davis and Merritt, or Roseville, Cal., including branches."

A public hearing was held before Examiner Geary and the application having been duly submitted is now ready for an opinion and order.

The following, from exhibits of record, gives a chronological history of the item in question:

Between	And	Unless otherwise specifically provided in individual tariffs making reference hereto, rates in such tariffs apply only via:
Item 410—Prior to March 3, 1923.		
Sacramento, Cal., and points north and east via Davis or Roseville, Cal., including branches.	Brighton, Cal., and points south.	*Elvas, Cal.* Homestead, Cal.
Item 410-A—Effective March 3, 1923.		
Sacramento, Cal., and points beyond via Davis or Roseville, Cal., including branches.	Brighton, Cal., and points beyond via Polk and Ramona, Cal.	*Elvas, Cal.* Homestead, Cal.
Item 410-B—Effective September 23, 1924.		
Sacramento, Cal., and points beyond via Davis and Merritt or via Roseville, Cal., including branches.	Brighton, Cal., and points beyond via Polk and Ramona, Cal.	*Elvas, Cal.* Homestead, Cal.

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Item 410-C—Effective March 28, 1925.

Sacramento, Cal., and points beyond via Davis or Roseville, Cal., including branches.	Brighton, Cal., and points beyond via Polk and Ramona, Cal.	*Elvas, Cal.* Homestead, Cal.

Item No. 410-C is now in effect and the change here proposed is the addition of the words "and Merritt" immediately following the word "Davis." Merritt is the first station north of Davis and the change here sought is to cure an erroneous routing description.

Prior to March 3, 1923, application of the rates in the routing circular was restricted to points north and east of Davis, and the question arising as to what points were included within the description north of Davis, applicant in an effort to clarify the situation amended the item, effective March 3, 1923, by changing the wording, points north of Davis, to read, points beyond Davis. By this change points beyond via Davis included not only points north of Davis, but also west thereof, thus extending rates to points west of Davis, an adjustment never intended. As a further correction, applicant again amended the item, effective September 23, 1924, by addition of the words "and Merritt." This latter change resulted in an unauthorized increase and upon attention being directed to the 63d section violation the applicant was required to restore the item previously in effect.

Various milling companies intervened and objected to certain increases in the grain rates which will result in movements from points located west of Davis, between Suisun-Fairfield and Dixon, when destined to San Joaquin Valley stations. These grain rates, however, are few in number and applicant stipulated it would adjust the rates following our decision in Case No. 2125, *Albers Bros. Milling Company* vs. *Southern Pacific Company*.

Shippers of cement from Tolenas direct attention to the fact that a diversion privilege, under transit rules now available to a limited territory, could not be used under the proposed change in the routing circular. The rates on cement, *per se*, are not affected and a check of traffic made by the intervener showed that during a period of two years only one car moved securing the diversion privilege.

The object of the routing circular is to establish rates via named points and particular routes, and is of special importance when two or more routes are available, as in this situation, where the traffic can move between Brighton and Sacramento via either the west side through Homestead, or the east side through Elvas. It is obvious that routings should not ordinarily apply to back haul territory, which would be the result at points west of Davis and create rates not in any manner involved in the Brighton-Sacramento loop lines. Commissioner Eshelman stated, in the Golden Gate Brick case, No. 362, 2 C. R. C. 609:

> I am not at all in sympathy with the practice of carriers in putting tortured construction upon a tariff provision so that the same may yield them

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more revenue, and I certainly am no more in sympathy with the same practice when indulged in by shippers with a view to securing less rates.

The proposed amendment will restore rates and routes in effect prior to the tariff publication errors, and a full consideration of the record in this proceeding clearly indicates that the item should be changed.

We are of the opinion and find that Item 410-C of Southern Pacific G. F. D. Circular 199-E, C. R. C. 2711, is unreasonable. An order will be entered authorizing the change as set forth in the application.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order, and which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that applicant, Southern Pacific Company, be and it is hereby authorized to amend Item 410-C of its G. F. D. Circular 199-E, C. R. C. 2711, as set forth in the application.

Dated at San Francisco, California, this eighth day of February, 1927.

DECISION No. 17978.

IN THE MATTER OF THE APPLICATION OF COUSINS LAUNCH AND LIGHTER COMPANY FOR NEW OR MODIFIED CERTIFICATE OF PUBLIC CONVENIENCE REOPERATION OF FIVE VESSELS FOR THE TRANSPORTATION OF PERSONS AND PROPERTY, FOR COMPENSATION, BETWEEN POINTS UPON THE INLAND WATERS OF THE STATE OF CALIFORNIA.

Application No. 13282.

Decided February 8, 1927.

CERTIFICATE—CARRIER BY WATER—INLAND WATERS.—Application denied.

J. F. Quinn, Attorney for Applicant.

Peter H. Ryan, Attorney for Protestant.

BY THE COMMISSION.

OPINION.

This is an application under the provisions of section 50 (*d*) of the Public Utilities Act, by Cousins Launch and Lighter Company, seeking a certificate of public convenience and necessity covering the operation of vessels on the inland waters of Humboldt Bay so as to authorize applicant to engage in the transportation of all employees and property of the Little River Redwood Lumber Company between Eureka and Fairhaven.

The Coggeshall Launch and Towboat Company protested the granting of the application upon the grounds that it is now and has been

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for the past several years operating as a common carrier on a daily schedule between Eureka and Fairhaven and is able and willing to supply sufficient equipment to adequately care for all the needs of the public between these two points.

A public hearing was held before Examiner Geary at Eureka November 19, 1926, and the application having been duly submitted is now ready for our opinion and order.

The record indicates that for years applicant or its predecessor has transported the employees and property of the Little River Redwood Lumber Company between Eureka and Little River wharf. The lumber company, however, is now moving its plant and equipment to Fairhaven and the major portion of its business will be, within a few months, conducted at the latter point.

The plea for authority to operate from and to Fairhaven is predicated solely upon the desire to continue in effect the service heretofore rendered from and to Little River wharf and the only evidence and testimony submitted in support of the application was from employees of the Little River Redwood Lumber Company, who indorsed the past and present service between Eureka and Little River wharf and expressed a desire to have applicant perform, in the future, a similar service between Eureka and Fairhaven.

A study of the record, however, shows the testimony submitted is without probative value, for in the past applicant has transported and now is transporting the employees and property of the lumber company at contract rates, but not as a common carrier. From 50 to 75 employees of the lumber company are transported daily, morning and evening, except Sunday, between Eureka and Little River wharf and occasionally consignments of lumber are transported. For the passenger service a flat monthly charge of $100 is collected and for the freight a charge of approximately $1.50 per ton.

Likewise, applicant transports the employees of the Dolbeer-Carson Lumber Company between Eureka and Little River wharf at a flat charge of $20 per month. The reason a lesser monthly charge is assessed against one company than the other is because of the smaller number of men. There is no written contract between the parties, the service being rendered under a verbal understanding, and the practice has been in effect for some 15 or 16 years.

There was testimony to the effect that the special passenger and freight transportation business between Humboldt Bay points represented but a very small fraction of applicant's total business, which consists of towing, lighterage and stevedoring.

It is clearly proven by this record that applicant has devoted its transportation service almost entirely to the use of mill employees between Eureka and Little River wharf at flat sums per month, verbally

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agreed to by the applicant and the interested mill companies and, therefore, that applicant has never, in genuine practice, performed a common carrier service as defined by the provisions of the Public Utilities Act. As heretofore stated, applicant's desire is to transport only the employees and property of the Little River Redwood Lumber Company.

During and for a period following the war Fairhaven was a community of several hundred people, but now it is practically abandoned. With the removal there of the lumber mills from Little River the community will be revived to some extent, although the majority of the mill employees will commute from Eureka.

Protestant, Coggeshall, now renders a common carrier service between Eureka and Fairhaven, which service has been conducted at a loss during the greater part of the past few years.

The testimony shows there is not sufficient traffic for two ferries and that the best common carrier service can be given by the protestant now furnishing the service to all the public.

After consideration of all the facts of record we are of the opinion and find there is no public convenience and necessity for a service as outlined by applicant between Eureka and Fairhaven and that the application should be denied.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had and basing this order on the findings of fact contained in the opinion preceding this order;

It is hereby ordered, that this proceeding be and the same hereby is dismissed.

Dated at San Francisco, California, this eighth day of February, 1927.

DECISION No. 17979.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AGENT, FOR AN ORDER GRANTING PERMISSION TO PUBLISH UNIFORM COMMODITY DESCRIPTION ON SALT IN CERTAIN TARIFFS.

Application No. 13332.

Decided February 8, 1927.

RATES—STEAM RAILROADS—SALT—UNIFORM DESCRIPTION.—Application granted.

Platt Kent and *A. L. Whittle*, for Applicant.
Seth Mann, for San Francisco Chamber of Commerce.
Z. Clements, for Leslie Salt Company.
G. W. Griswold, for Morton Salt Company.
A. A. Oliver, for Oliver Salt Company.
C. M. McDaniel, for Arden Salt Company.

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BY THE COMMISSION.

OPINION.

This is an application filed by F. W. Gomph, as agent for and on behalf of Pacific Freight Tariff Bureau, Southern Pacific Company, Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad Company, Pacific Electric Railway Company, San Diego and Arizona Railway Company, and Northwestern Pacific Railroad Company, for an order granting permission to amend numerous items in tariffs, shown in exhibits A, B, C, D, E, F and G, attached to the application and as amended at the hearing, by publishing the following uniform description of salt:

> "Salt, common (sodium chloride) in packages, in blocks, or in bulk, carloads."

The exhibits named above list the items published in the individual tariffs of petitioning carriers, proposed to be changed.

A public hearing was held before Examiner Geary at San Francisco January 10, 1927, and the application having been duly submitted is now ready for our opinion and order.

For many years applicant's tariffs have contained commodity rates on salt, undefined, also on crude, cake, refuse, rock, rough, etc., and the proposed changes are to eliminate these various and unsatisfactory terms.

Witness for applicants testified that the above description will be specific and thus designate clearly the article for which the rates are established and will simplify the tariffs, inasmuch as the proposed description will conform to that shown in Consolidated Freight Classification No. 4, page 381, item 20. This description was approved by the Interstate Commerce Commission in Docket No. 14106, *Sterling Salt Company* vs. *Ann Harbor Railroad Company et al.*, decided October 14, 1924, reported in 92 I. C. C. 388.

In referring to the commodity description in that Docket, the Commission said:

> The term salt, as used herein, will mean sodium chloride, generally called common salt. The consolidated classification provides carload ratings on salt, common (sodium chloride)," of sixth class in official, class A in southern, and class C in western classifications, "in packages, in blocks, or in bulk, C. L. min. wt. 40,000 lbs." Separate ratings are named on "salt flavored (celery, garlic or onion and salt combined)," and on "salt, live stock, medicated."

At the hearing, protestants representing the principal salt manufacturers in California called attention to the fact that the amended description would possibly result in increases in rates, as the so-called common salt now moving under the present salt rates contains small quantities of either iodine or sulphur or magnesium carbonate. The latter article is added in order to make the salt run freely. Applicants' witness testified that under the proposed classification description the

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rates now in effect would continue to apply in the future as in the past on salt containing a small quantity of the articles mentioned above. With this understanding protestants withdrew all opposition to the granting of the application.

Upon consideration of all the facts of record, we are of the opinion and find that the application should be granted, subject to the stipulation agreed to at the hearing, that no increases in rates will result because the salt shipped may contain a small quantity of either iodine, sulphur or magnesium carbonate.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order, and which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the applicants, Southern Pacific Company, Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad Company, Pacific Electric Railway Company, San Diego and Arizona Railway Company, Northwestern Pacific Railroad Company and Pacific Freight Tariff Bureau, by F. W. Gomph, agent, be and they are hereby authorized to amend tariffs shown in exhibits A, B, C, D, E, F and G attached to the application and as amended at the hearing, by publishing the commodity description on salt as proposed in the application, with a proviso that the rates on salt, common (sodium chloride), will also apply when same contains small quantities of iodine, sulphur or magnesium carbonate.

Dated at San Francisco, California, this eighth day of February, 1927.

DECISION NO. 17980.

IN THE MATTER OF THE APPLICATION OF THE ROSEVILLE TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 13441.

Decided February 8, 1927.

SECURITIES—STOCK—TO ISSUE.—Application granted.

W. Hanisch, for Applicant.

BY THE COMMISSION.

OPINION.

Roseville Telephone Company asks permission to issue and sell at par $12,500 par value of its common capital stock and use the proceeds

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to reimburse its treasury on account of earnings expended for additions and betterments to its telephone properties.

Applicant corporation was organized on or about April 1, 1914, with an authorized capital stock of $25,000 divided into 2500 shares of the par value of $10 each, all shares being common. Its articles of incorporation have been amended from time to time and at present provide for an authorized stock issue of $100,000 divided into 10,000 shares of the par value of $10. The company now reports $50,000 of stock outstanding and has no indebtedness other than current accounts payable.

Attached to the petition filed in this proceeding is a statement showing in detail 1925 and 1926 construction expenditures for additions and betterments amounting to $12,518.71. W. Hanisch, manager of Roseville Telephone Company, testified that the expenditures in such statement had actually been incurred and that they represent the cost of materials and supplies and the labor necessary to acquire and install the telephone equipment and properties referred to in such statement. He also testified that if the company is permitted to issue the $12,500 of stock, such stock will be purchased by the company's present stockholders. It appears that while the company asks permission to use the proceeds to reimburse its treasury, such proceeds will in the main be expended for the extension, replacement and improvement of the company's properties.

Applicant as of December 31, 1926, reports assets and liabilities as follows:

Assets.

Plant and equipment	$64,378 49
Securities	702 50
Cash	3,502 08
Due from subscribers and agents	1,181 42
Special funds	6,962 43
Total	$76,726 92

Liabilities.

Capital stock	$50,000 00
Accrued liabilities not due	730 25
Depreciation reserve	13,197 46
Surplus	12,799 21
Total	$76,726 92

ORDER.

Roseville Telephone Company having applied to the Railroad Commission for permission to issue and sell $12,500 par value of its common capital stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted as herein provided; therefore,

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It is hereby ordered, that the Roseville Telephone Company be and it is hereby authorized to issue and sell on or before October 1, 1927, for cash at not less than par, $12,500 par value of its common capital stock and use the proceeds obtained from the sale of such stock to reimburse its treasury on account of earnings expended for additions and betterments.

It is hereby further ordered, that the authority herein granted will become effective upon the date hereof and that Roseville Telephone Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this eighth day of February, 1927.

DECISION NO. 17983.

ALBERS BROS. MILLING CO., A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 2125.

Decided February 8, 1927.

RATES - STEAM RAILROAD - GRAIN—DISCRIMINATION.—Rates complained of found unreasonable, and rates fixed removing such discrimination and placing rates from San Joaquin Valley west side points to South Vallejo, Port Costa, Oakland and Sacramento on a parity.

C. S. Connolly, for Complainant.
James E. Lyons and *A. L. Whittle*, by *A. L. Whittle*, for Defendant.
R. P. McCarthy, for Globe Grain and Milling Company and Phillips Milling Company.
E. W. Hollingsworth, for the Traffic Department of Oakland Chamber of Commerce.
E. B. Smith and *M. J. McCarthy*, for Sperry Flour Company.
F. A. Somers, for Grangers Business Association.
A. Cohn, for Port Costa Warehouse Company.
J. C. Sommers, for Stockton Chamber of Commerce.

BY THE COMMISSION.

SUPPLEMENTAL OPINION AND ORDER.

Our original opinion, decided March 3, 1926, appears in 27 C. R. C. 684. The complaint, filed April 29, 1925, attacks the commodity rates charged by defendant for the transportation of grain and grain products to and from Oakland, alleging they subjected complainant to undue prejudice and disadvantage, and extended undue preference and

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advantage to competitors at South Vallejo, Port Costa, Stockton and Sacramento.

We found that certain specific changes should be made in the rates to Oakland from points on the Napa branch and from Vanden, Cannon and Elmira, stations on the main line west of Davis, and also that the rates to Oakland from stations on the west side of the San Joaquin Valley, Lyoth and south, should not exceed the rates to Sacramento from the same points.

The case was reopened in response to petitions from both complainant and defendant. Complainant's principal contention, as outlined in the petition for rehearing, is that the rates to Oakland from both the east and west side in the San Joaquin Valley should be on a parity.

Defendant likewise objects to the San Joaquin Valley adjustment upon the plea there is practically no tonnage of grain moved to Sacramento from west side San Joaquin Valley points, therefore no discrimination against Oakland. Attention also is directed to the fact that because of a tariff publication error embraced in the provisions of Item 410 of Southern Pacific Company G. F. D. Circular 199-E, C. R. C. 2711, South Vallejo rates are made to apply through Sacramento, thus reducing specific rates from points between Suisun and Sacramento to points south of Tracy.

The rates affected by the tariff errors in Item 410 are before the Commission in an independent proceeding, Application No. 13199, and are disposed of in our opinion in that matter.

Rehearing was had and the case is now before us on the whole record.

In effect, this proceeding is a supplement to Case No. 1463, June 1, 1921 (20 C. R. C. 1 and 21 C. R. C. 302), wherein the grain rates were adjusted by removing discriminations found to exist at that time as between Oakland and South Vallejo-Port Costa from points in the Sacramento, San Joaquin and Salinas Valleys. However, rates to Oakland as compared with Sacramento were not involved in that proceeding.

The rates established in Case No. 1463 to Oakland from all San Joaquin Valley points were made 1 cent higher than to South Vallejo and Port Costa for distances not over 200 miles from Port Costa; one-half cent for distances over 200 miles and not over 300, and a parity of rates for distances over 300 miles. The distance from Port Costa, the basing point, to Oakland, is 14.6 miles. The San Joaquin Valley west side to Port Costa rates were extended to Sacramento by the Southern Pacific Company, thus placing South Vallejo, Port Costa and Sacramento on a rate parity, leaving Oakland with rates higher than the three competing points, South Vallejo, Port Costa and Sacra-

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mento, although the distance from west side stations San Joaquin Valley to Oakland is three miles shorter than to Sacramento from the same points.

In our original decision in the instant proceeding, and discussing the Sacramento rates (27 C. R. C. 689) we said:

> These rates are not on a positive mileage grade. On the west side, where the distance favors Oakland by 3 miles, the rates at some points are on a parity, but at many stations the Sacramento rates are lower than the Oakland rates by from ½ to 3 cents. As compared with this adjustment we find that the rates to Port Costa, South Vallejo and Sacramento from San Joaquin Valley east side points, Manteca and south, are on a parity at all points and in this situation Port Costa, which is the basing point for the rates, is approximately 4 miles greater than to Sacramento.
>
> We find as a fact that the rates from the west side stations in the San Joaquin Valley, Lyoth and south, to Oakland, discriminate against Oakland. An order will enter requiring defendant to remove the discrimination by publishing rates from this territory to Oakland not in excess of those now in effect to Sacramento from the same points.

A considerable part of the testimony taken on rehearing was directed to the circumstances and conditions of the transportation from the San Joaquin Valley, but this additional testimony does not differ to any material extent except to show in an exhibit, filed by defendant, that there is practically no grain tonnage movement from San Joaquin Valley west side stations to Sacramento and that there is a substantial flow of traffic from these points to Oakland. With the distance from San Joaquin Valley, west side, to Oakland 3 miles shorter than to Sacramento and the operating conditions and water competition very similar, there are no reasons why the rates should be higher to Oakland than to Sacramento. We find no reason to change our conclusions as to South Vallejo, which has a longer rail mileage but is on the Port Costa rate basis because of the water competition, these two important grain points being on opposite sides of the bay.

We have carefully examined the petitions for rehearing and the complete record, and find no reason for materially changing our conclusions that South Vallejo, Port Costa, Oakland and Sacramento should have a parity of rates from San Joaquin Valley west side points. The order herein will fix the positive rates to establish this adjustment and remove the discrimination found to exist.

There is no reason upon this record for deviating from our conclusions with reference to the Napa Branch rates, nor is there any reason for changing the rate to Oakland from east side San Joaquin Valley points, Manteca and south, where the distance is approximately 19 miles greater than to Sacramento. These Oakland rates are now 1 cent and ½ cent higher than Sacramento, dependent upon distance of haul, and these differentials should not be disturbed.

Upon further consideration of all the matters and things of record in this proceeding, we are of the opinion and so find that the rates

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herein assailed are unduly preferential and discriminatory to the extent they exceed or for the future may exceed the rates hereinafter set forth in the order immediately following this opinion.

The rates herein prescribed are to supersede those prescribed in our original opinion and order and covered by our decision No. 16077. They will also supersede any conflicting rates prescribed by order in *Albers Bros. Milling Co.* vs. *Southern Pacific Company,* Case No. 1463, Decision No. 10153 (21 C. R. C. 302).

ORDER.

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and the Commission having filed its opinion and supplemental opinion containing its findings of fact and conclusions thereon, which said opinions are hereby referred to and made a part hereof;

It is hereby ordered, that the Southern Pacific Company be and it is hereby ordered and required to desist on or before twenty days from the date of this order and thereafter to abstain from publishing, maintaining and applying rates not in accordance with those hereinafter set forth.

It is hereby further ordered, that the Southern Pacific Company be and it is hereby ordered and required to establish on or before twenty days from the date of this order, upon notice to this Commission and to the general public by not less than five days' filing and posting in the manner prescribed in section 14 of the Public Utilities Act, and thereafter to maintain and apply for the transportation of grain and articles taking the same rates as shown in Southern Pacific Tariff 793-E, C. R. C. 2487, the following rates:

Between	*Oakland*	*Port Costa South Vallejo*	*Sacramento*
Yarmouth	9½	9½	9½
Vernalis	9½	9½	9½
Olm	10½	10½	10½
Westley	10½	10½	10½
Vanormer	12	12	12
Patterson	12	12	12
Crows Landing	13½	13½	13½
Newman	13½	13½	13½
Gustine	14	14	14
Lmora	14½	14½	14½
Ingomar	14½	14½	14½
Los Banos	14½	14½	14½
Alatto	16½	16½	16½
Dos Palos	16½	16½	16½
Oxalis	17½	17½	17½
Silaxo	18½	18½	18½
Ingle	18½	18½	18½
Tranquility	20½	20½	20½
Hassett	20½	20½	20½
Jamesan	18½	18½	18½
Floyd	18½	18½	18½
Belinda	18½	18½	18½

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McMullin	19½	19½	19½
Cando	19½	19½	19½
Lillis	20½	20½	20½
Kimble	20½	20½	20½
Armona	21	20½	20½
Orion	21	21	21
Heinlen	21	21	21
Rossi	21	21	21
Cuneo	21	21	21
Stratford	21	21	21
Lethent	21	21	21
Westhaven	21½	21½	21½
Turk	21½	21½	21½
Alcade	22	22	22
Edison	23½	23½	23½
Dena	23½	23½	23½
Caliente	25½	25½	25½
Bealville	26½	26½	26½
Bowen	27	27	27
Marcel	27	27	27
Cable	27½	27½	27½
Warren	27½	27½	27½
Mojave	28	28	28
Gloester	28	28	28
Rosamond	28½	28½	28½
Palmdale	28½	28½	28½
Harold	29½	29½	29½
Vincent	29½	29½	29½
Acton	30	30	30
Lang	30	30	30
Humphreys	30½	30½	30½
San Fernando	30½	30½	30½
Pacoima	31	31	31
Burbank	31	31	31
Sepulveda	31½	31½	31½
Glendale	31½	31½	31½

It is hereby further ordered, that as to other respects the complaint in the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this eighth day of February, 1927.

DECISION NO. 17992.

IN THE MATTER OF THE APPLICATION OF CLAREMONT DOMESTIC WATER COMPANY FOR AN ORDER AUTHORIZING ISSUE OF ADDITIONAL BONDS IN THE AMOUNT OF TEN THOUSAND DOLLARS TO REIMBURSE THE TREASURY FOR CAPITAL EXPENDED AND TO PAY FOR NEW IMPROVEMENTS.

Application No. 13481.

Decided February 11, 1927.

SECURITIES—BONDS—TO ISSUE.—Application granted.

George S. Summer, for Applicant.

BY THE COMMISSION.

OPINION.

Claremont Domestic Water Company, a corporation, engaged in the business of supplying water for domestic and irrigation purposes in and about the city of Claremont, Los Angeles County, and for street sprinkling and fire protection purposes in the city of Claremont, asks

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for permission to issue and sell at not less than face value, plus accrued interest, $10,000 of its first mortgage 6 per cent bonds, due March 1, 1954, for the purpose of reimbursing its treasury and paying the cost of improvements.

The company reports that during the year 1926 it expended for capital improvements the sum of $7,736.79, which includes $1,411.34 used for meters and connections, $1,348.85 for pumping equipment, $3,751.17 for distribution mains and $1,009.78 for general equipment. In addition it reports that because of lowered water stratas it has contracted to purchase a new 120 horsepower commercial engine for $4,750 and other equipment for $1,120.39.

While applicant asks permission to use the proceeds it will receive from the sale of its bonds to reimburse its treasury and to pay for improvements, it appears that it intends to use $8,870 of such proceeds to pay obligations incurred in making the expenditures referred to herein, such obligations consisting of $3,000 due on a short term note, $4,750 due on account of the purchase of the new engine and $1,120.39 due on account of the purchase of additional pipe and other equipment. The order herein accordingly will direct the use of $8,870 of bond proceeds to pay indebtedness, and of the balance, $1,130, to reimburse the treasury.

ORDER.

Claremont Domestic Water Company, having applied to the Railroad Commission for permission to issue and sell $10,000 of bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Claremont Domestic Water Company be and it hereby is authorized to issue and sell, on or before June 30, 1927, at not less than face value, plus accrued interest, $10,000 of its first mortgage 6 per cent bonds, due March 1, 1954;

The authority herein granted is subject to the following conditions:

(1) Applicant shall use the proceeds, other than accrued interest, which it will receive from the sale of the bonds herein authorized, to pay the indebtedness of $8,870 to which reference is made in the foregoing opinion and to reimburse its treasury because of surplus earnings of $1,130 used in making additions, betterments and improvements. The accrued interest may be used for general corporate purposes.

(2) Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will

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enable it to file, on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

Dated at San Francisco, California, this eleventh day of February, 1927.

DECISION No. 17993.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING SAID COMPANY TO ISSUE AND SELL THREE THOUSAND FIVE HUNDRED SHARES OF ITS FIRST PREFERRED CAPITAL STOCK AT NOT LESS THAN NINETY-FOUR PER CENT OF THE PAR VALUE THEREOF.

Application No. 13491.

Decided February 11, 1927.

SECURITIES—PREFFERED STOCK—TO SELL.—Application granted.

Leo H. Susman, for Applicant.

BY THE COMMISSION.

OPINION.

Coast Counties Gas and Electric Company asks permission to issue and sell, at not less than 94 per cent of par value, $350,000 of its first perferred 6 per cent stock for the purpose of financing the cost of additions and betterments to its electric and gas plants and systems.

In a former application, No. 13307, filed with the Commission on November 8, 1926, the company reported that up to September 30, 1926, it had expended $817,747.62 in making additions and betterments to its properties, no part of which had been obtained from the sale of bonds, stock or other securities, but according to the testimony of W. W. Kamm, applicant's secretary, from surplus earnings and moneys represented by its reserve for depreciation. By Decision No. 17706, dated November 3, 1926, the Commission authorized the company to issue and sell $500,000 of preferred stock to reimburse its treasury and reserves and to finance permanently in part the reported expenditures of $817,747.62 and to pay in part for construction expenditures to be made subsequent to September 30, 1926.

The company now reports that it has sold all of the $500,000 of stock authorized by Decision No. 17706 and that in addition subscriptions were received for approximately $350,000 of stock in excess of the amount authorized. Applicant has therefore filed this petition at this

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time for permission to issue $350,000 of additional stock. It reports, in support of its request, that up to December 31, 1926, it had expended for additions and betterments the sum of $573,866.35 which has not been paid or provided through the issue of securities. The amount is determined as follows:

Expenditures uncapitalized, September 1, 1926 (Application No. 13307)	$817,747 62
Add expenditures October 1, 1926, to December 31, 1926	226,118 73
Subtotal	$1,043,866 35
Less receipts from sale of $500,000 of stock authorized by Decision No. 17706	470,000 00
Balance	$573,866 35

Applicant reports that it has incurred a cost of about $2 per share to sell the 5000 shares of stock authorized by Decision No. 17706.

The testimony herein indicates that the proceeds to be received from the sale of the $350,000 of stock will be used chiefly to pay 1927 construction costs. These costs were described in a tentative budget filed in Application No. 13307, but have since been revised, and as revised have been submitted in this proceeding as Exhibit "I." Summarized, the estimated expenditures are as follows:

Electric Department.		
New consumers	$215,000 00	
Santa Cruz substation	27,900 00	
Aptos substation	5,700 00	
Hollister substation	12,400 00	
Pacheco substation	11,500 00	
Gilroy substation	32,800 00	
Morgan Hill substation	17,800 00	
Coyote substation	19,800 00	
San Juan substation	4,600 00	
Watsonville-Betabel line	24,000 00	
Coyote-Morgan Hill line	25,000 00	
Warehouses and garages	18,000 00	
Miscellaneous and contingencies	77,950 00	
Total electric department		$492,450 00
Gas Department.		
New consumers	$50,000 00	
Pittsburg gas works	17,000 00	
Pinole compressor station	23,000 00	
Santa Cruz gas works	32,000 00	
Watsonville gas works	3,500 00	
Hollister gas works	3,000 00	
Gilroy gas works	3,000 00	
Santa Cruz-Watsonville line	145,600 00	
Miscellaneous and contingencies	64,500 00	
Total gas department		341,600 00
General.		
Gilroy office building	$20,000 00	
Transportation equipment	9,800 00	
Total general		29,800 00
Total		$863,850 00

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The company asks permission to use an amount not exceeding 4 per cent of the par value of stock sold to pay stock selling expenses and commissions. Such an allowance, we believe, is excessive. The order herein will allow the expenditure of not more than 2 per cent for said purposes.

ORDER.

Coast Counties Gas and Electric Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Coast Counties Gas and Electric Company be and it is hereby authorized to issue and sell on or before December 31, 1927, at not less than 94 per cent of par value, $350,000 of its first preferred capital stock.

The authority herein granted is subject to the following conditions:

(1) Of the proceeds to be received from the sale of the stock herein authorized, applicant may use an amount not exceeding 2 per cent of the par value of stock sold to pay commissions and expenses incident to the sale of the stock, and may use the remaining proceeds, and such portion of the 2 per cent not needed to pay commissions and expenses incident to the sale of the stock, to reimburse its reserves and treasury and to finance permanently construction expenditures made prior to December 31, 1926, and to pay in part for construction expenditures, referred to in Exhibit "I," to be made during 1927, provided that only such construction expenditures as are properly chargeable to fixed capital accounts under the uniform systems of accounts prescribed by this Commission, may be financed through the use of such proceeds.

(2) Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the 25th day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this eleventh day of February, 1927.

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DECISION No. 17994.

IN THE MATTER OF THE APPLICATION OF MONROVIA TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AUTHORITY TO ESTABLISH A RATE FOR PAY STATION SERVICE.

Application No. 13493.

Decided February 11, 1927.

RATES—TELEPHONE UTILITY—LOCAL CALLS—PAY STATIONS.—Applicant authorized to charge five cents for each local message from public pay stations.

BY THE COMMISSION.

ORDER.

Whereas, Monrovia Telephone and Telegraph Company having filed an application with this Commission requesting authority to file and make effective a charge of five cents for each local message made from established public pay stations; and

Whereas, the rendering of public pay station service will be in the interest of subscribers of the service of Monrovia Telephone and Telegraph Company and to the public, and it appearing that this is a matter in which a public hearing is not necessary.

It is hereby ordered, that Monrovia Telephone and Telegraph Company be and it is hereby authorized to charge and collect a sum of five cents for each local telephone message made from public pay stations on and after March 1, 1927, providing such rate be submitted for filing with this Commission on or before February 28, 1927.

Dated at San Francisco, California, this eleventh day of February, 1927.

DECISION No. 17996.

IN THE MATTER OF THE APPLICATION OF A. J. GUGLIELMETTI, R. P. GUGLIELMETTI AND W. J. GUGLIELMETTI, COPARTNERS IN TRADE, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF GUGLIELMETTI TELEPHONE COMPANY, FOR ORDER FOR INCREASE OF RATES AND FOR ESTABLISHMENT OF RATES ON NEW SERVICE.

Application No. 12249.

Decided February 11, 1927.

RATES—TELEPHONE UTILITY—TO INCREASE—OWNERSHIP OF FACILITIES.—Previous order amended to permit applicant to collect equal rates from all subscribers to the same classes of service, irrespective of ownership of facilities. Applicant directed to acquire such equipment when offered for sale by customer-owners, and to reimburse owners therefor in a reasonable amount.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, in its Decision No. 17337, dated September 14, 1926, ordered that Guglielmetti Telephone Company, a

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copartnership, might modify its rates for service to those set forth in Exhibit "A," attached thereto, after proper showing that it had acquired ownership in, and assumed the maintenance of all telephone instruments and all branch lines connected to its system and upon Supplemental Order of this Commission; and

Whereas, evidence has been offered by applicant, Guglielmetti Telephone Company, purporting to show that it has made a diligent effort to acquire ownership in all telephone equipment and facilities as required in said decision, but that, due to the unwillingness of some of the subscriber-owners to sell their telephone property to applicant, compliance by applicant with the provisions of the order in said decision might, through no act or default of applicant, be indefinitely postponed; and

Whereas, it appears that such action on the part of some of applicant's subscribers might defeat the intent and purpose of Decision No. 17337, above mentioned, and that the order in said decision should be modified to permit applicant to obtain relief through an increase in rates to become effective within a reasonable time;

It is hereby ordered, that Guglielmetti Telephone Company shall, on and after March 1, 1927, charge to and collect from all its subscribers, according to the class and grade of service rendered and without reference to the ownership of facilities, the rates for service as set forth in Exhibit "A," which exhibit was attached to and made a part of Decision No. 17337.

It is hereby further ordered, that Guglielmetti Telephone Company shall purchase any and all equipment and facilities now owned by some of its subscribers, and used by the Guglielmetti Company in rendering telephone service, when offered for sale to it by such subscribers, and shall compensate each of such subscribers therefor in a reasonable amount.

It is hereby further ordered, that Guglielmetti Telephone Company shall, on and after March 1, 1927, keep in good repair and operating condition all telephone instruments and branch lines connected to its system, without regard to the ownership of such instruments or lines.

It is hereby further ordered, that the order in Decision No. 17337, dated September 14, 1926, shall remain in full force and effect except as modified by this supplemental order.

The authority contained in this supplemental order is subject to the condition that rates as set forth in Exhibit "A," referred to above, be submitted for filing with the Railroad Commission on or before February 28, 1927.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this eleventh day of February, 1927.

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DECISION NO. 18001.

IN THE MATTER OF THE APPLICATION OF EL CAMINO CANAL COMPANY, A CORPORATION, FOR AN ORDER FIXING JUST, REASONABLE AND NONDISCRIMINATORY RATES FOR WATER.

Application No. 11719.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TEHAMA LAND CORPORATION, EL CAMINO IRRIGATION DISTRICT AND EL CAMINO CANAL COMPANY FOR APPROVAL OF THE TRANSFER OF CERTAIN IRRIGATION WORKS.

Application No. 13270.

IN THE MATTER OF THE APPLICATION OF FINNELL LAND COMPANY TO SELL AND TRANSFER CERTAIN PROPERTY TO EL CAMINO CANAL COMPANY.

Application No. 13292.

IN THE MATTER OF THE APPLICATION OF PACIFIC LAND CORPORATION TO SELL AND TRANSFER CERTAIN PROPERTY TO EL CAMINO CANAL COMPANY.

Application No. 13293.

Decided February 11, 1927.

TRANSFER—WATER UTILITY—ILLEGAL SALE.—Applications of Finnell Land Company and of Pacific Land Corporation for authority to transfer water utility property to El Camino Canal Company, hitherto transferred without approval of the Commission, granted. Transfer of property by California Tehama Land Corporation and El Camino Canal Company of said property to El Camino Irrigation District approved on condition that twelve consumers residing outside the district be served by the district after acquiring such properties.

RATES—TO INCREASE.—Application of El Camino Canal Company for just and reasonable rates, dismissed.

Athearn, Chandler and Farmer, by *Albert E. Chandler*, for Applicant in Application No. 11719.

Fred C. Pugh, for T. R. LePage, J. W. Dewitt, G. F. Wiegand, Andrew Schafer, James Hickman, Emil Guderjohn, A. L. Hickman, C. T. Byran, E. A. Hurker, John A. Hanson and Signa J. Hanson, Protestants.

H. B. Seymour, for El Camino Land Company and California Tehama Land Company.

George Harrington, for El Camino Irrigation District.

WHITSELL, *Commissioner*.

OPINION.

These applications, all involving the properties of the El Camino Canal Company, have been filed with this Commission under the belief that the company is a public utility in its service of water to certain consumers—twelve in number—on its system.

The first application filed, No. 11719, is a request by El Camino Canal Company for an increase in rates as to these twelve consumers. A hearing on this application was held at Tehama, California, at which time certain of the consumers appeared, protesting the jurisdiction of the Commission to entertain the application on the ground that they were receiving irrigation water from the Canal Company

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under contracts, and not as public utility consumers, and that the El Camino Canal Company was not a public utility.

From the evidence adduced at this hearing it appears that the El Camino Canal Company holds its properties under transfers from the Finnell Land Company and the Pacific Land Corporation, which transfers have not been authorized by this Commission. If the El Camino Canal Company is a public utility, so as to entitle it to make an application before the Commission for a rate increase, it follows that its predecessors, the Finnell Land Company and the Pacific Land Corporation, were also public utilities for the reason that the record shows that the canal company has operated these properties in the same manner and to the same extent as did its predecessors, and since the canal company has acquired these properties, it has made no additional dedication of them to public use. Assuming as a fact that the predecessor companies were public utilities, under section 51 (*a*) of the Public Utilities Act these transfers would be void, since they have not been authorized by order of the Commission, as is required by that section.

This situation was pointed out to counsel for the El Camino Canal Company, and in response, Applications Nos. 13292 and 13293 were filed by the Finnell Land Company and the Pacific Land Corporation, respectively, asking that the Commission authorize the transfer of the properties of each company to the El Camino Canal Company.

Prior to the filing of these latter applications, Application No. 13270 was filed by the California Tehama Land Company and the El Camino Irrigation District, requesting this Commission to authorize the transfer of the properties belonging to the El Camino Canal Company to the El Camino Irrigation District.

Application No. 11719 was reopened, and Applications Nos. 13270, 13292 and 13293 were set down for hearing on the eighth day of December, 1926, at San Francisco. At that time it was agreed upon by and between the parties that all matters should be consolidated for the purpose of hearing and decision. At this hearing certain consumers of the canal company, represented by counsel, appeared in protest to the granting of the application for authority to transfer the properties of the canal company to the irrigation district on the ground, among others, that all of such consumers were holders of contracts with the canal company or its predecessors in interest, under which contracts the canal company must deliver irrigation water to the protestants, and that the Commission is without authority to abrogate these contractual rights by authorizing the transfer to the irrigation district.

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The matters were orally argued, and were submitted after the filing of briefs by the parties, and are now ready for decision.

After a careful review of the record, I am of the opinion that the El Camino Canal Company has dedicated its properties to the service of water to these twelve consumers, and is a public utility; and I am of the further opinion that its predecessors, Finnell Land Company and the Pacific Land Corporation, were also public utilities in their rendering of a similar service to these same consumers.

In order that the canal company may obtain a valid legal title to the properties owned by it, I recommend that applications numbered 13292 and 13293 be granted.

I feel that Application No. 13270, asking authority to transfer the properties from the El Camino Canal Company to the El Camino Irrigation District should be granted, subject, however, to the condition that the irrigation district will continue to serve the twelve consumers of the canal company in all respects as they have been served by the latter company.

With respect to Application No. 11719, asking for an increase in rates, I am of the opinion that there is not sufficient evidence in the record to justify an increase at this time, and I recommend that the same be dismissed without prejudice.

ORDER.

Applications as above named and numbered having been filed with this Commission, public hearings having been held thereon, all matters having been duly submitted and being now ready for decision;

It is hereby ordered, that said Application No. 13292, filed by the Finnell Land Company, requesting authority to sell and transfer certain property to the El Camino Canal Company, and the same is hereby granted.

It is hereby further ordered, that Application No. 13293, filed by the Pacific Land Corporation, for authority to sell and transfer certain property to the El Camino Canal Company, be and the same is hereby granted.

It is hereby further ordered, that Application No. 13270, filed by the California Tehama Land Corporation, El Camino Irrigation District and El Camino Canal Company, seeking approval by this Commission of the transfer of properties of the El Camino Canal Company to the El Camino Irrigation District, be and the same is hereby granted, subject to the condition that the El Camino Irrigation District will continue to serve the lands of the twelve present consumers in all respects as they have been served by the El Camino Canal Company.

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It is hereby further ordered, that Application No. 11719 filed by the El Camino Canal Company, for an order fixing just, reasonable and nondiscriminatory rates for water, be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eleventh day of February, 1927.

DECISION NO. 18002.

G. H. BEEKMAN, W. E. WOODS, AND T. P. KELSO, AS RECEIVERS OF THE WOODS-BEEKMAN LUMBER COMPANY,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY.

Case No. 2301.

Decided February 14, 1927.

RATES—RAILROAD—MAGNESITE STUCCO—CRUSHED ROCK—REPARATION.—Defendant carriers directed to refund to complainants all charges collected in excess of 29½ cents per 100 pounds on 82,440 pounds of magnesite stucco and 73½ cents per 100 pounds on 4000 pounds of crushed rock forwarded December 30, 1922, from Porterville to Beverly Hills.

BY THE COMMISSION.

OPINION.

By complaint filed December 16, 1926, and as amended January 3, 1927, G. H. Beekman, W. E. Woods and T. P. Kelso, receivers of the Woods-Beekman Lumber Company, allege that the rate charged for the transportation of 82,440 pounds of magnesite stucco and 4000 pounds of crushed rock, in sacks, from Porterville December 30, 1922, and delivered at Beverly Hills January 9, 1923, was unreasonable to the extent it exceeded rate of 29½ cents per 100 pounds on magnesite stucco and 73½ cents per 100 pounds on crushed rock.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

The statute of limitations was tolled by registering the shipment with this Commission January 8, 1925, under Informal Complaint No. 32060.

Beverly Hills is located on the Pacific Electric Railway 16 miles from Los Angeles. Porterville is on the San Joaquin Division of the Southern Pacific Company approximately 223 miles north of Los Angeles. The combination class C rate of 40 cents was charged, made 29½ cents to Los Angeles and 10½ cents beyond. Concurrently there was a joint

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commodity rate of 29½ cents applicable on stucco and plaster from Mound House, Nevada, to Beverly Hills. Porterville is located between these points, but Pacific Freight Tariff Bureau Tariff 4-I, containing the 29½ cent rate, was filed only with the Interstate Commerce Commission, therefore the rate was not applicable to the shipment involved.

Defendants voluntarily established, to become effective February 23, 1927, a rate of the same volume on magnesite stucco from Porterville to Beverly Hills. Complainant bases its plea for reparation upon the interstate rate effective at time of movement, which rate is now published on intrastate traffic.

Defendants admit the allegation of the complaint and have signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the assailed rate was unreasonable to the extent it exceeded the subsequently established rate of 29½ cents on magnesite stucco and that the less than carload consignment of crushed rock, weighing 4000 pounds, is subject to the fourth class rate of 73½ cents; that complainant made the shipments as described; paid and bore the charges thereon and is entitled to reparation.

Complainant will submit statement to defendants for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Southern Pacific Company and Pacific Electric Railway Company, according as they participated in the transportation, be and they hereby are authorized and directed to refund to complainants, G. H. Beekman, W. E. Woods and T. P. Kelso, receivers of Woods-Beekman Lumber Company of Beverly Hills, California, all charges they may have collected in excess of 29½ cents per 100 pounds on 82,440 pounds of magnesite stucco, and 73½ cents per 100 pounds on 4000 pounds of crushed rock, forwarded December 30, 1922, from Porterville to Beverly Hills.

Dated at San Francisco, California, this fourteenth day of February, 1927.

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Decision No. 18003.

IN THE MATTER OF THE APPLICATION OF THE FARMINGTON TELEPHONE ASSOCIATION FOR AUTHORITY TO ABANDON TELEPHONE SERVICE IN THE AREA IN AND AROUND THE TOWN OF FARMINGTON, SAN JOAQUIN COUNTY, CALIFORNIA.

Application No. 12579.

Decided February 14, 1927.

ABANDONMENT—TELEPHONE SERVICE.—Application granted.

J. J. Deuel, for Applicant.
J. G. Marshall, for The Pacific Telephone and Telegraph Company.

BY THE COMMISSION.

OPINION.

This is a proceeding in which Farmington Telephone Association, hereinafter sometimes called the association, requests authority to abandon telephone service in the area in and around the town of Farmington, all in San Joaquin County.

A public hearing was held in this matter before Examiner Satterwhite at Stockton on September 3, 1926, at which time and place the matter was submitted for decision.

Applicant maintains a switchboard in the town of Farmington where local switching is performed and where connections are made to the long distance lines of The Pacific Telephone and Telegraph Company for service to outside points.

The association began operations as a farmer line association which secured switching service at the central office of The Pacific Telephone and Telegraph Company, in the town of Farmington. On July 18, 1913, The Pacific Telephone and Telegraph Company and Farmington Telephone Association made a joint application for permission for the former to withdraw from and the latter to enter certain territory in and adjacent to the town of Farmington as an operator of a telephone system. This application was granted and since that time the association has been rendering local exchange telephone service in that territory.

The president and secretary of the association gave testimony at the hearing regarding the past and present condition of its lines, equipment and financial resources.

Applicant offered as its Exhibit No. 1 a copy of its by-laws, which indicated that each member should pay his proportion of the cost of construction and maintenance of the telephone system, and establishing rules and regulations for the administration of the business.

The original cost of the switchboard was $12.15 to each member of the association. All lines and telephone instruments were already

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the property of the members of the association since its former operations had been on a farmer line basis.

The original monthly charge per member-subscriber was fifty cents which, with occasional assessments and 30 per cent commission from The Pacific Telephone and Telegraph Company on all outgoing toll messages, constituted the entire revenue of the associaton. The monthly charges were increased from time to time. At the date of the hearing in this matter, members having individual line service paid $3 per month, those having two-party service paid $2.50 per month and all others paid $2 per month.

Applicant's Exhibit No. 2, a copy of the minutes of the several meetings of the association, as written by its secretary, indicated that, at times, the outside lines were repaired at the expense of the association and, at other times, by the members served by such lines as needed repairs. There is no indication that the matter of depreciation ever had been considered or that any provision had been made at any time for major replacements of plant.

It is evident that the property has been deteriorating while the member-subscribers have been receiving telephone service at a low monthly charge. Evidence was given that the entire plant needs to be rebuilt and that the association has no surplus accumulated for that purpose. The raising of the monthly charges to members and the lowering of the cost of shares in the association have brought no relief. Witnesses stated that, on account of the financial inability of some members and unwillingness of others, they believe that the association's operations can not be placed on a self-supporting basis for future service.

The question of whether the association is a mutual organization or a public utility was raised at the hearing. Regardless of the status of the association as to its public relations, all testimony given shows that the users of the service desire to abandon it on account of its inadequacy, and no decision upon this phase of the matter need be made. Abandonment of operations by the association may leave the community, for a time at least, without telephone service. The possibility if this result was brought to the attention of members of the association who gave testimony or were in the hearing room, but no objection was made to the granting of the application; and on this account and for the reason that the subscribers to telephone service in the community are also the members of the association, the application should be granted and the order following will so provide:

ORDER.

Farmington Telephone Association, having made application to the Railroad Commission for authority to abandon telephone service

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in the area in and around the town of Farmington, a public hearing having been held and the matter being now ready for decision:

The Railroad Commission hereby finds as a fact that applicant in this proceeding should not be required to continue the operation of its telephone system.

Basing its order on the foregoing finding of fact and upon other findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Farmington Telephone Association be and it is hereby authorized to abandon all its telephone operations from and after March 1, 1927.

The authorization herein contained is conditional upon abandonment of service being completed on or before April 1, 1927.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourteenth day of February, 1927.

DECISION No. 18005.

IN THE MATTER OF THE APPLICATION OF MOTOR TRANSIT COMPANY FOR AN ORDER PERMITTING THE REVISION OF PASSENGER FARES ON ITS LOS ANGELES-DOWNEY LINE AND ON THE LINE OF THE DILLINGHAM TRANSPORTATION COMPANY, OPERATED BY APPLICANT UNDER LEASE.

Application No. 11455.

Decided February 14, 1927.

RATES—AUTO STAGES—TO INCREASE.—Application granted.

Herbert W. Kidd, Attorney, for Applicant.

BY THE COMMISSION.

OPINION ON REHEARING.

This proceeding was reopened for the purpose of further hearing with respect to the proposed adjustment of the one-way, round-trip, 10-ride and 30-ride passenger fares applicable between points on applicant's line extending from Los Angeles to Downey, and on the line of the Dillingham Transportation Company extending from Pasadena to Long Beach. The latter line was originally operated under a lease arrangement, but subsequently was made a part of Motor Transit System under authority of the Commission in Applications Nos. 10698 and 10710.

By our order of January 22, 1926, Decision No. 15893, we authorized applicant to establish between Los Angeles and County Farm a one-way fare of 40 cents, round-trip 70 cents, 10-ride $2.80, and 30-ride $7.20; between Pasadena and Long Beach, via Mountain View Heights, a one-

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way fare of 75 cents, round-trip $1.30, 10-ride $5.25, 30-ride $13.50; between Pasadena and Long Beach via Alhambra, El Monte, Whittier and Rivera and via Alhambra, Montebello, Whittier and Los Nietos, a one-way fare of $1, round-trip $1.70, 10-ride $7 and 30-ride $18. At the intermediate points we authorized one-way fares based on 2½ cents per mile; round-trip fares 85 per cent of two one-way fares; 10-ride commutation 70 per cent of 10 one-way fares and 30-ride commutation 60 per cent of the 30 one-way fares. In computing the fares authority was given to dispose of fractions, as follows: Amounts less than 2½ cents will be dropped; amounts 2½ cents or more but less than 7½ cents will be stated as 5 cents, and amounts 7½ cents or more but less than 10 cents will be stated as 10 cents.

In the petition for rehearing filed October 1, 1926, it is alleged the volume of the fares prescribed by the Commission, particularly at the intermediate points, is inadequate and insufficient to defray the actual out-of-pocket costs of operation, and authority is herein sought to establish the fares set forth in Exhibits A-1 to A-6 attached to the petition in lieu of the fares authorized by Decision No. 15893, *supra.*

A rehearing was held before Examiner Geary at Los Angeles December 9, 1926, and at that time additional evidence and testimony were submitted. Based on this more comprehensive record our order in the original proceeding will be modified.

The one-way fares proposed in the petition for rehearing are predicated on the basis prescribed by the Commission in the original order, i. e. 2½ cents per mile. The one exception is the fare between Pasadena and Long Beach via Mountain View Heights and Bandini, where applicant now proposes an 80-cent fare in lieu of the 75-cent fare authorized. The actual distance between Long Beach and Pasadena is 33.1 miles, which on a basis of 2½ cents per mile would produce a fare of 85 cents, or 5 cents more than now proposed.

Likewise, the round trip and 30-ride commutation fares proposed are the same as those authorized by the Commission, namely, 85 per cent of two one-way fares and 60 per cent of 30 one-way fares, respectively.

Likewise, the round trip and 30-ride commutation fares proposed are the same as those authorized by the Commission, namely, 85 per cent of two one-way fares and 60 per cent of 30 one-way fares, respectively.

The proposed 10-ride commutation fares are predicated on 75 per cent of 10 one-way fares instead of 70 per cent as authorized by the Commission. It is alleged the latter basis was in error and will result in the establishment of noncompensatory fares.

The fares now proposed, based on the present amount of traffic, will not produce sufficient revenue to cover the actual out-of-pocket cost of operations, including depreciation and taxes. On the Los Angeles-

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Downey line the operating revenue, under the present fares, for the year ending June 30, 1926, was 19.2 cents per car mile, with operating expenses of 25.7 cents per car mile, a loss of 6.5 cents per car mile. For the Pasadena-Long Beach line the operating revenue during the same period was 16.7 cents per car mile, the per car mile cost being 25.7 cents, a loss of 9 cents per car mile. Under the proposed fares the car mile revenue via the Downey line is estimated at 19.7 cents and via the Pasadena-Long Beach line at 20.9 cents.

Applicant's general manager testified that the fares sought are not expected to produce sufficient revenue to meet actual operating expenses at this time, but that by the establishment of the 10-ride and 30-ride commutation fares, not now maintained, a material increase in operating revenue would be expected and that with further economies in the operation of the lines are properties would attain a paying basis.

After consideration of all the facts of record we are of the opinion and find that applicant should be authorized to establish the fares set forth in Exhibits A-1 to A-6 attached to the petition for rehearing, filed with the commission October 1, 1926.

ORDER.

A rehearing having been held in the above entitled proceeding, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order,

It is hereby ordered, that our order entered on January 22, 1926, in the above entitled proceeding be and it hereby is modified and amended to read as follows:

It is hereby ordered, that applicant, Motor Transit Company, be and it is hereby authorized to establish on fifteen (15) days' notice to the Commission and to the public between Los Angeles, County Farm and points intermediate thereto, and between Pasadena, Long Beach and points intermediate thereto, one way, round trip, 10-ride and 30-ride passenger fares as specifically set forth in Exhibits A-1 to A-6, inclusive, and as amended, attached to and made a part of the petition for rehearing filed with the Commission October 1, 1926.

It is hereby further ordered, that in all other respects the Commission's order entered on January 22, 1926, in the above entitled proceeding shall remain in full force and effect.

Dated at San Francisco, California, this fourteenth day of February, 1927.

DECISION No. 18008.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE EXCHANGE

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OF ITS COMMON AND PREFERRED STOCKS FOR LIKE STOCKS HAVING A REDUCED PAR VALUE.

Application No. 13495.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF PREFERRED STOCK.

Application No. 13496.

Decided February 16, 1927.

SECURITIES—STOCK—TO ISSUE—TO EXCHANGE.—Southern California Gas Company authorized to issue 240,000 shares of common stock of a par value of $25 a share in exchange for 60,000 shares of $100 a share par value, upon a basis of four shares of $25 for one share of $100 stock. Also to issue 160,000 shares of preferred stock at $25 a share for 40,000 shares at $100 a share. Also to issue and sell for not less than $24 a share, 40,000 shares of preferred stock Series "A", and to use not exceeding $1 a share for selling expenses.

A. E. Peat, for Applicant.

BY THE COMMISSION.

OPINION.

In Application No. 13495, Southern California Gas Company asks permission to issue and to exchange 240,000 shares of its common stock, of a par value of $25 each (total par value $6,000,000), for 60,000 shares of its common stock, now outstanding, of a par value of $100 each, and to issue and to exchange 160,000 shares of its preferred stock, of a par value of $25 each (total par value $4,000,000), for 40,000 shares of common stock, now issued or subscribed, of a par value of $100 each.

In Application No. 13496, Southern California Gas Company asks permission to issue and sell 40,000 shares of preferred stock, Series A, of a total par value of $1,000,000 for the purpose of reimbursing its treasury and of financing the cost of extensions, additions and betterments to its plants and properties.

A public hearing on these two applications was held before Examiner Fankhauser in Los Angeles on February 4, 1927, at which time the matters were consolidated for the purpose of receiving evidence and for decision.

First giving consideration to Application No. 13495 it appears that recently applicant's stockholders have voted to amend its articles of incorporation so as to increase its authorized capital stock from $10,000,000 to $100,000,000; to decrease the par value of its shares of stock from $100 a share to $25 a share and to exchange shares now outstanding and subscribed for on the basis of four shares of the newly authorized stock for one share of the old stock; and to provide for a new class of stock to be known as preferred stock, Series "A."

Under the articles of incorporation as now amended the authorized capital stock consists of $40,000,000 of common stock, $4,000,000 of

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preferred stock and $56,000,000 of preferred stock, Series "A." The holders of preferred stock and preferred stock, Series "A," shall be entitled, without preference or distinction, as between the two classes of stock, or the holders thereof, to receive cumulative dividends at the rate of 6 per cent per annum before any dividends are paid to the holders of the common stock, but shall not be entitled to any further dividend or share of the profits beyond the cumulative annual dividend of 6 per cent. In case of the liquidation or the dissolution of the corporation, the holders of the preferred stock and the holders of the preferred stock, Series "A," shall be entitled, without preference or distinction, as between the two classes of stock, or the holders thereof, to be paid in full both the par value of their shares and accrued dividends before any amount shall be paid to the holders of the common stock. But on any such liquidation or dissolution, after the payment to the holders of the common stock of its par value, no further distribution shall be made to the holders of preferred stock, Series "A," and the remaining assets and funds shall be divided pro rata among the holders of preferred stock and the holders of common stock.

The $10,000,000 of stock authorized by the articles of incorporation prior to the amendment herein referred to, consisted of $6,000,000 of common stock and $4,000,000 of preferred stock. The company reports that at present there is outstanding the $6,000,000 of common stock and there is either issued or subscribed, the $4,000,000 of preferred stock. It appears, in this connection, that the company has sold all the preferred stock heretofore authorized to be issued (Decision No. 15103, dated June 25, 1925, Application No. 11219) but that certificates in some cases have not yet been issued, final payments not having been made. When such final payments are made, it is applicant's intention to issue shares of the new par value.

As said in Application No. 13496, applicant asks permission to issue 40,000 shares of the preferred stock, Series "A," of the aggregate par value of $1,000,000. The company asks permission to sell the stock at not less than $24 a share and to use not exceeding $1 a share to pay commissions and selling expenses and to use the remaining proceeds to reimburse its treasury and to finance the cost of additions and betterments. The company reports that up to November 30, 1926, it had expended for additions and betterments for which it has not been reimbursed through the issue of securities, the sum of $2,516,302.87, and it estimates its construction expenditures for 1927 at from $2,000,000 to $2,500,000. The company's 1927 construction budget has not yet been completed. The company has, however, filed under the Commission's General Order No. 65 detailed statements of its construction expenditures up to November 30, 1926, and monthly financial statements. A. E. Peat, applicant's treasurer and controller, requested that both the

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construction and financial statements be considered as part of applicant's evidence in these proceedings. The statements have been examined by us and we believe warrant the granting of this application.

ORDER.

Southern California Gas Company having applied to the Railroad Commission for permission to issue stock having a reduced par value in exchange for outstanding stock, and to issue and sell additional stock, a public hearing having been held and the Railroad Commission being of the opinion that the applications should be granted as herein provided, and that the money, property or labor to be procured or paid for through the issue of such additional stock is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, as follows:

(1) Southern California Gas Company may issue $6,000,000 of its common stock divided into 240,000 shares of the par value of $25 each, in exchange for the $6,000,000 of common stock now outstanding, consisting of 60,000 shares of the par value of $100 each, such exchange to be effected upon the basis of four shares of said stock of the par value of $25 each for each share of stock of the par value of $100 now outstanding.

(2) Southern California Gas Company may issue $4,000,000 of its preferred stock divided into 160,000 shares of the par value of $25 each in exchange or substitution for the $4,000,000 of preferred stock now outstanding or sold and subscribed for but not yet issued, consisting of 40,000 shares of the par value of $100 each, such exchange or substitution to be upon the basis of four shares of said stock of the par value of $25 each for each share of stock of the par value of $100 now outstanding or subscribed.

(3) The order in Decision No. 15103, dated June 25, 1925, in Application No. 11219 is hereby modified so as to permit applicant to deliver shares of stock of the par value of $25 each in lieu of shares of stock of the par value of $100 each, as indicated herein.

(4) Southern California Gas Company is authorized to issue and sell, on or before December 31, 1927, at not less than $24 a share, 40,000 shares of its preferred stock, Series "A," of the aggregate par value of $1,000,000, and to use not exceeding $1 per share of stock sold to pay commissions and other expenses incident to the sale thereof and to use the remaining proceeds, and such portion of the $1 not needed to pay commissions and other expenses incident to the sale of stock, to reimburse its treasury on account of earnings expended for construction purposes to and including November 30, 1926, and to finance in part

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such of the costs of additions and betterments to its plants and properties made prior to November 30, 1926, as is properly chargeable to fixed capital accounts, as defined by the uniform system of accounts, prescribed by this Commission.

(5) Southern California Gas Company shall file with the Commission quarterly reports showing the amount and classes of stock issued in exchange for outstanding stock and the expenses incurred to effect said exchange, the first of said reports to be filed on or before April 30, 1927, covering the period from the effective date of this order to and including March 31, 1927, and subsequent reports to be filed within thirty days after the end of the quarter covered by the report.

(6) Southern California Gas Company shall file with the Commission as soon as available a copy of its 1927 construction budget and, further, shall keep such record of the issue and sale of the $1,000,000 of preferred stock, Series "A" herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(7) The authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this sixteenth day of February, 1927.

DECISION NO. 18009.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA, FOR AN INCREASE OF ITS EXISTING RATES AND TO ESTABLISH REASONABLE RATES FOR NATURAL GAS SUPPLIED TO ITS CONSUMERS IN ITS WESTERN DISTRICT.

Application No. 13477.

Decided February 21, 1927.

RATES—GAS UTILITY—NATURAL GAS—TEMPORARY INCREASE.—Temporary increase of approximately 15 per cent over rates hitherto charged for mixed gas granted Southern Counties Gas Company of California for distribution of natural gas in its western district (Santa Monica, Palms, Sawtelle, Venice, Ocean Park, Culver City and adjacent territory).

Leroy M. Edwards, for Applicant.
Jess E. Stephens, City Attorney, *Milton Bryan* and *J. L. Ronnow*, Deputy City Attorneys, for the city of Los Angeles.
Chester L. Coffin, City Attorney, for the city of Santa Monica.
A. H. King, City Attorney, for the city of Culver City.

SEAVEY, *Commissioner*.

OPINION.

This is an application of Southern Counties Gas Company of California asking the Railroad Commission of the State of California for

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an order authorizing applicant to increase its rates for gas supplied to its consumers in its western district.

Southern Counties Gas Company of California operates extensive gas transmission and distribution facilities in southern California, the territory involved in the present proceeding being the cites of Santa Monica, Culver City, Barnes and those portions of the city of Los Angeles known as Venice, Sawtelle, Palms and contiguous territory. As this particular portion of the Southern Counties Gas Company's properties is detached from the balance of the transmission and distribution system, it has for some years been supplied with gas purchased from Southern California Gas Company.

Prior to January 27th of this year, gas so supplied has been an admixture of artificial and natural gas, and commencing with that date, straight natural gas has been supplied.

A public hearing was held in Los Angeles on February 10, 1927. Applicant submitted ten exhibits, which were explained by testimony, and applicant's witnesses testified on past operations of the company, book investment, intangible capital, rate base, rate of return, increased heat content of natural gas as compared to mixed gas, and related matters.

C. C. Brown, of the Commission's engineering department, submitted and explained an exhibit which related to the substitution of natural gas for mixed gas in applicant's western division, the reduction in net revenue to be expected, and the necessary increase in gas rates to yield the same rate of return with natural gas service as has been realized with mixed gas service.

Cross examination of witnesses was deferred until April 5th, to which date the hearing was adjourned.

Applicant, through statement by counsel, amended its application, asking the Commission to grant immediate and temporary relief through increased rates to apply until such time as permanent rates shall be established. Attorney for the city of Santa Monica proposed an increase in rates to domestic and commercial consumers, effective March 1, 1927, which would yield somewhat more than a 20 per cent increase in revenue from those consumers. Attorney for the city of Los Angeles protested granting temporary relief in any amount greater than 15 per cent increase of present rates.

The matter before the Commission at the present time is therefore limited to consideration of what relief, if any, should be granted applicant in the nature of increased rates to apply pending final determination of just and reasonable rates. Such matters as determination of reasonable rate base, and rate of return, need not be discussed here other than to state that the showing so far made indicates past rate of return has not been excessive. It appears that the substitution of

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natural gas of comparatively high heating value for mixed gas of lower heating value, reduces the gas consumption necessary to obtain equivalent results. Consequently, the gross revenue of the company will be substantially reduced if rates previously established for mixed gas service remain unchanged, and to the extent that economies of operation do not counteract such reduction of gross revenue, net revenue will likewise be reduced.

In the present instance evidence indicates that the service of natural gas at the former mixed gas rates will effect a decrease of substantially 20 per cent in the average consumer's requirements, and roughly the same percentage decrease in his bills.

An increase of substantially 15 per cent in present mixed gas rates will yield the company a return on invetsment about equal to that which would be received if the mixed gas service had been continued. Pending such time as the hearing in this application is concluded, final determination of rates made, and such rates placed in effect, I feel that the company should be granted an increase of substantially 15 per cent in those rates formerly applying to mixed gas service. In view of the higher heating value of the natural gas now being supplied to consumers who were previously supplied with mixed gas, such increased rates applying to natural gas will be more favorable to these consumers than the present rates would be with a continuation of the mixed gas service.

The rates set forth in Exhibit "A" hereto attached will yield substantially such incease. The following form of order is recommended:

ORDER.

Southern Counties Gas Company of California, having applied to the Railroad Commission of the State of California for an increase in rates for natural gas now being supplied by it in its western district in lieu of mixed gas heretofore supplied, and there being sufficient evidence before the Commission to justify an increase pending the final decision in this matter;

It is hereby ordered, that Southern Counties Gas Company of California be and it is hereby authorized pending final determination in this matter to charge and collect, effective for all regular meter readings taken on and after the twenty-fourth day of February, 1927, the schedule of rates set forth in Exhibit "A," said exhibit being attached hereto, and made a part hereof.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of February, 1927.

EXHIBIT "A."

SCHEDULE NO. 3-A.

(Superseding Schedule No. 3-A.)

General Service.

Applicable to Domestic and Commercial Service for lighting, heating and cooking.

NATURAL GAS.

Territory.

Applicable to Western District, including Santa Monica, Palms, Venice, Ocean Park, Culver City, Sawtelle and adjacent territory.

Rate.

First 4,000 cubic feet, per meter per month	$1 15 per M. cubic feet
Next 11,000 cubic feet, per meter per month	1 05 per M. cubic feet
Next 25,000 cubic feet, per meter per month	85 per M. cubic feet
All over 40,000 cubic feet, per meter per month	72 per M. cubic feet

Minimum Charge.

$1.00 per meter per month.

SCHEDULE NO. 3-B.

(Superseding Schedule No. 3-B.)

Gas Engine Service.

Applicable to service for internal combustion engines only.

Territory. NATURAL GAS.

Applicable to Western District, including Santa Monica, Palms, Venice, Ocean Park, Culver City, Sawtelle and adjacent territory.

Rate.

First 100,000 cubic feet, per meter per month	$0 50 per M. cubic feet
Next 400,000 cubic feet, per meter per month	0 45 per M. cubic feet
All over 500,000 cubic feet, per meter per month	0 40 per M. cubic feet

Minimum Charge.

$3.00 per meter per month.
For continuous yearly service, accumulative annual minimum of $36 per meter.

Special Conditions.

Measurement based upon the unit of 1000 cubic feet of gas at 4-ounce pressure above atmosphere. Consumers served under this schedule are subject to the prior use of consumers served under Schedule No. 3-A, but have priority in the use of gas over consumers served under Schedules No. 3-C, No. 3-D and No. 3-E, at times when there is insufficient gas to supply the demands of all consumers.

SCHEDULE NO. 3-C.

(Superseding Schedule No. 3-C.)

Commercial and Industrial Service.

Applicable to commercial and industrial service such as bakeries, packing houses, metal working plants, preserving and canning establishments, fruits and vegetable dryers and other consumers whose demands for gas are not dependent upon atmospheric temperature, or upon the preparation of meals and whose times of maximum demand, if any, do not coincide with the maximum demand of consumers served under Schedule No. 3-A.

Territory. NATURAL GAS

Applicable to Western District, including Santa Monica, Venice, Ocean Park, Culver City, Palms, Sawtelle and adjacent territory.

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Rate.

First 50,000 cubic feet, per meter per month	$0 70 per M. cubic feet
Next 150,000 cubic feet, per meter per month	0 60 per M. cubic feet
All over 200,000 cubic feet, per meter per month	0 55 per M. cubic feet

Minimum Charge.

$8 per meter per month.
For continuous yearly service, accumulative annual minimum of $96 per meter.

Special Conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under Schedules No. 3-D and No. 3-E, but are subject to the prior use of consumers served under Schedules No. 3-A and No. 3-B, at times when there is insufficient gas to supply the demand of all consumers.

SCHEDULE NO. 3-D.

(Superseding Schedule No. 3-D.)

Surplus Commercial Service.

Applicable to Commercial Service on existing mains having a delivery capacity in excess of the present requirements of consumers served under Schedules No. 3-A, No. 3-B and No. 3-C; for general use in apartments, hotels, restaurants, and business buildings which are equipped to use other fuels and can be changed over to use other fuels on thirty minutes notice. Consumers receiving service under this schedule are required to maintain adequate supplies of such other fuels.

Territory. NATURAL GAS.

Applicable to Western District, including Santa Monica, Palms, Venice, Ocean Park, Culver City, Sawtelle and adjacent territory.

Rate.

70 cents per 1000 cubic feet.

Minimum Charge.

$6 per meter per month.
For continuous yearly service, accumulative annual minimum of $72 per meter.

Special Conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under Schedule No. 3-E, but are subject to the prior use of consumers served under Schedules No. 3-A, No. 3-B, and No. 3-C, at times when the supply is insufficient for the demands of all consumers.

A contract for a period of one year will be required as a condition precedent to service under this schedule.

SCHEDULE NO. 3-E.

(Superseding Schedule No. 3-E.)

Surplus Industrial Service.

Applicable to industrial service on existing mains having a delivery capacity in excess of the present requirements of consumers served under Schedules No. 3-A, No. 3-B, No. 3-C and No. 3-D; for use in steam boilers, incinerators, kilns, or similar equipment, in which the gas is not used to heat buildings or to prepare meals, and which are equipped to use other fuels, and can be converted to use other fuels on thirty minutes' notice. Consumers receiving service under this schedule are required to maintain adequate supplies of such other fuels.

Territory. NATURAL GAS.

Applicable to Western District including Santa Monica, Venice, Ocean Park, Culver City, Palms, Sawtelle and adjacent territory.

Rate.

40 cents per thousand cubic feet.

Minimum Charge.

$50 per meter per month.

Special Conditions.

At times of gas shortage service to consumers under this schedule will be shut off in favor of consumers served under Schedule No. 3-A, No. 3-B, No. 3-C and No. 3-D.

A contract for a period of one year will be required as a condition precedent to service under this schedule.

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DECISION No. 18022.

IN THE MATTER OF THE APPLICATION OF MATTIE L. GOODWIN AND GRACE WEBB, COPARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF QUINCY WATER WORKS, FOR AN ORDER INCREASING THE RATES TO BE CHARGED FOR SERVICE AT QUINCY, PLUMAS COUNTY, CALIFORNIA, AND ESTABLISHING A SCHEDULE OF RATES AS SO INCREASED.

Application No. 12753.

IN THE MATTER OF THE APPLICATION OF MATTIE L. GOODWIN AND GRACE WEBB, COPARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF QUINCY WATER WORKS, FOR A DECISION OF THE QUESTION WHETHER CERTAIN PERSONS IN QUINCY, CALIFORNIA, NOW AND HERETOFORE HAVING FREE WATER SERVICE ARE ENTITLED TO THE CONTINUANCE OF SUCH SERVICE.

Application No. 13012.

Decided February 23, 1927.

RATES—WATER UTILITY—TO INCREASE—PERPETUAL FREE SERVICE.—In granting a slight increase to applicant the Commission reaffirms its previous declaration against maintaining perpetual free water rights, as imposing a burden on other consumers. It is held that the holders of such water service claims should appeal to the courts for adjudication of their claims. Rates are fixed for all consumers, and free services ordered discontinued.

U. S. Webb and *M. C. Kerr*, for Applicants.
J. D. McLaughlin, for certain protestants in Application No. 12753.
H. D. Wolf, for Yien Joe, Protestant in Application No. 13012.
L. H. Hughes, for C. J. Lee and Meryl Robertson, protestants in Application No. 13012.

BY THE COMMISSION.

OPINION.

In Application No. 12753, as entitled above, an increase in water rates is sought by Mattie L. Goodwin and Grace Webb, copartners operating under the fictitious name and style of Quincy Water Works and engaged in the business of supplying water for domestic and commercial purposes to the inhabitants of the town of Quincy, Plumas County. The application alleges in effect that the rates heretofore established for this system by the Railroad Commission do not produce revenues sufficient to meet the costs of operation and maintenance, and the Commission therefore is requested to establish a schedule of rates which will provide for a reasonable income to the owners over and above the operating and maintenance expenses and proper allowance for depreciation, which schedule of rates it is further alleged should be not less than 50 per cent greater than the rates now in effect.

A public hearing in this proceeding was held before Examiner Austin in Quincy after all interested parties had been duly notified and given an opportunity to appear and be heard.

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The Quincy Water Works has been in operation and serving water to residents of the town of Quincy for over forty years and has been controlled and operated by the present owners for more than twelve years last past. The water supply is obtained from springs located in Goodwin Ravine, Ganzer Ravine, and on property formerly known as the Boyle Ranch. These springs are all on lands now owned by the company, comprising 160 acres more or less. Water is stored in two concrete reservoirs of a total capacity of 525,000 gallons, from which it is distributed by gravity to the consumers. The average capacity of the springs is claimed to be 37 miner's inches.

The transmission and distribution system consists of approximately 16,400 feet of pipe lines and mains varying from 10 inches to 1½ inches in diameter, the larger sizes being riveted steel and the smaller sizes being either O. D. casing or standard screw pipe. The system is entirely unmetered and on May 1, 1926, served 153 active consumers.

The rates now charged by this utility were established by the Railroad Commission in its Decision No. 9811, dated November 23, 1921, (20 C. R. C. 888), rendered in connection with cases Nos. 1492 and 1493, which decision provides only for flat rate charges as set out in part as follows:

Monthly Flat Rate Schedule.

1.	Residences, boarding houses, flats, lodging houses, apartments, of five rooms and less	$1 00
	For each additional room	10
	Additional for each bathtub	25
	Additional for each toilet	25
	Additional for each private garage and one automobile	25
	Additional for each private barn and one head of stock	25
	Additional for each automobile or head of stock over one	20
2.	Sprinkling or irrigation of lawns, gardens, shrubbery, etc., when taken continuously, per 100 square feet	02
	Sprinkling or irrigation of lawns, gardens, shrubbery, etc., when not taken continuously, per 100 square feet	05
3.	Blacksmith shops, machine shops, lumber yards, printing offices, bakeries, undertaking parlors, grocery stores, theatres, warehouses, meat markets, drug stores, billiard parlors	1 50
16.	Fire hydrants, each	1 00

No appraisement was submitted by applicants other than the allegations set forth in the application to the effect that the properties have actually cost more than $28,000 and are now of a value greatly in excess thereof. The application further sets forth that the annual operating and maintenance costs, including interest on borrowed moneys, amount to slightly in excess of $3,700 as compared to an average gross revenue of $3,800.

D. H. Harroun, one of the Commission's hydraulic engineers, presented a report in which he estimated the original cost of the physical properties exclusive of water rights and certain lands owned by the company and known as the Boyle property, to be $18,480 as of April

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30, 1926, with a corresponding depreciation annuity of $320, computed by the sinking fund method at 5 per cent. The operating and maintenance expenses for the immediate future were estimated to be $2,557.

Applicants have contended that they are entitled to an allowance for water rights which shall include the land known as the Boyle property, containing 96 acres of land, which was acquired by applicants for the sole purpose of obtaining water developed upon these lands, no value for which was included by the Commission's engineer in his appraisement of the properties of this utility. From the evidence it appears that during the severe drought and consequent water shortage existing throughout the entire State of California in 1924, this utility was badly handicapped by lack of an adequate water supply, and as a result of complaints made informally to this Commission by certain of the consumers the Commission suggested to the utility that it take immediate measures to provide an additional water supply. This suggestion was complied with through the purchase of the Boyle property upon which was located a spring capable of producing a normal low flow of approximately 17 miner's inches. The acquisition of this property was authorized by this commission in its Decision No. 13637, dated June 3, 1924, in Application No. 10133 (25 C. R. C. 8). The Boyle property consists principally of hilly lands, a portion of which is timbered. It contains about ten acres of meadow land which is susceptible of cultivation and has located upon it a small ranch house. According to the testimony applicant has sold from this land about $800 worth of timber.

In view of the fact that the evidence shows that the present value of this property is now in excess of the amount paid for it in 1924, and as this utility evidenced its good faith by acquiring an additional water supply at the request of this Commission and in so doing obtained the most available and practicable supply at the best terms possible and at a price not unreasonable, it appears to the Commission that in all fairness this utility is entitled to have included in its rate base for the purpose of this proceeding the sum of $8,150 which it paid for the Boyle properties for the primary purpose of securing the water rights appurtenant thereto.

J. D. McLaughlin, counsel for certain protestants, advanced the contention that applicant should not be entitled to include in the rate base the cost of the reservoir used for fire protection purposes by reason of the fact that this reservoir was built at the sole expense of and is maintained by the Quincy Fire District. Applicant claims that this reservoir was built under agreement with the said fire district wherein the land was furnished by the company and the cost of installation borne by the district, which although maintaining the reservoir has

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given the title to the water company, and for this reason said reservoir is a part of the applicant's property which should be properly included in the rate base.

From the evidence it appears that in order to provide an adequate supply of stored water for fire protection purposes the Quincy Fire District entered into an agreement dated May 7, 1923, with the Quincy Water Works, wherein the district agreed to install at its own cost a reservoir of approximately 250,000 gallons capacity, on land owned by the water works and adjacent to the then existing reservoir, and also to install at its own expense the intake facilities from Goodwin ravine as well as the pipe lines and fittings necessary to connect this new reservoir to the reservoir and distribution system belonging to the water works. This agreement further provides that the water works may use for its domestic requirements one half of the storage capacity of the fire reservoir and the district agrees to maintain and keep in repair for the life of the contract, which is fifty years, this reservoir and its appurtenant structures and connecting pipe lines. It is further set out in the agreement that title to all the property installed by the district shall vest in the water works and that for a period of fifty years the water works shall supply to the fire district water service for fire protection purposes through its distribution system and through fire hydrants installed by the district, for which the latter shall pay at the rate of $25 per month for not more than thirty fire hydrants, the rate to be charged for additional hydrants to be subject to agreement by and between the parties to the contract.

The above agreement was entered into by reason of this Commission's Decision No. 9811 (20 C. R. C. 888), wherein the complaint of the Quincy Fire District demanding that the Quincy Water Works be required to install at its own expense the necessary facilities for the rendering of adequate service for fire protection purposes was dismissed for lack of jurisdiction.

It appears to the Commission that the Quincy Fire District has installed at its own cost the facilities for diverting and storing water, for delivering such water to the existing distribution system of the water works, and has also installed the necessary fire hydrants. In addition to this it has given this utility title to the entire installation and complete control over its operation, even permitting the use of one half of the fire reservoir storage for domestic service when conditions require. Besides this the district itself must pay for the costs of maintenance and repair of this property, although it is no longer the owner. On the other hand the utility provides the water supply and distribution facilities and the reservoir site, which, however, have already been included in the appraisement presented by the Commission's engineer. For this service the utility is reimbursed to the

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extent of twenty-five dollars per month for not to exceed thirty hydrants, a rate agreed upon some two years subsequent to the fixing by the Commission of a rate of $1 per month each for fire hydrant for the then existing fire service. In fairness to the fire district and the regular consumers under these circumstances and conditions the Commission can not reasonably permit the inclusion of the cost of this fire reservoir and its appurtenant connections to be made a part of the rate base upon which this utility is entitled to earn a return through charges to be paid by the consumers.

Based upon the testimony and evidence presented it appears that the sum of $26,630 represents a reasonable rate base for the purposes of this proceeding and that for the immediate future a fair allowance for the annual maintenance and operating expenses and depreciation annuity will be $2,600 and $320 respectively. The revenues receivable for the year 1925 amounted to $4,036. Based upon the foregoing figures as determined herein the operations for 1925 resulted in a net return of approximately 4.2 per cent on the above rate base of $26,630. It is apparent that applicants are entitled to a slight readjustment of the existing rate schedule.

This water works now has an ample water supply of fine quality served at good pressure. The system has been economically managed and efficiently operated, and practically no restrictions have been placed upon the amount of water used by the consumers, a fact which has resulted in encouraging the use of water for domestic irrigation purposes and has developed a community now famous for its beautiful lawns and gardens. This is well illustrated by the very high water consumption, amounting to 3200 gallons daily per consumer, or approximately 625 gallons daily per capita. It is the desire of applicants to continue the present practice of water delivery as long as there is sufficient water, and therefore no rate for measured service is requested. The schedule of rates set out in the following order is designed to produce slightly increased revenues which should yield a fair return upon the investment over and above the reasonable costs of operation and maintenance, including depreciation.

In Application No. 13012, which by stipulation was combined for hearing and decision with the above rate proceeding, the Quincy Water Works asks the Commission to determine the status of the rights to free water service claimed by certain consumers. The application sets forth that for the last twelve years the present owners and operators of the Quincy Water Works have served water to nine consumers or their predecessors in interest without making any charge therefor because each of these consumers claims an established and perpetual right to free water from this system. It is further alleged that these nine consumers refuse to pay the current rates for water service, which results

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in an unfair discrimination as to the other consumers. The Commission therefore is requested to determine whether applicant shall continue to supply above consumers with free water service or charge them the regular rates.

From the evidence it appears that the water system now supplying the town of Quincy was installed by Judge John D. Goodwin and placed in operation in the year 1878. In 1867 one Corydon Lee acquired by purchase a tract of land located below the mouth of what is now called the Goodwin ravine. A small tank which was located upon this property received its water through a flume running from a small diversion dam in Goodwin ravine which at this time was vacant land. The original source of the water was from springs and seepage in this ravine. From the water tank three pipe lines were taken out: a two-inch line carried water to the Lee property, while a one-inch pipe line carried water to the property of Judge Goodwin, which had been acquired by him in 1860, and a similar one-inch pipe conveyed water to property belonging to John Coburn, comprising the old Coburn House, a famous early-day hostelry, and certain commercial businesses run in connection therewith. The water was used upon the Lee and Goodwin premises for general household purposes and for garden and to some extent agricultural irrigation use. From the testimony the above three parties claimed title and ownership to all the water rights in Goodwin ravine in proportion to the capacity of their respective pipe lines. G. W. Meylert purchased the hotel from Coburn in 1873 and in the same year for a consideration of $100 obtained by quitclaim deed from Judge Goodwin the right to take from the tank on Goodwin's property the amount of water which would flow through a one-inch pipe. In the early part of 1878 or immediately prior thereto Judge Goodwin decided to install a more comprehensive water system and deliver and sell water to users in the town of Quincy. Verbal agreement was entered into by Goodwin with Lee and Coburn whereby all of the waters procurable in Goodwin ravine were stored in a new reservoir placed at a higher elevation, the old tank was abandoned, and Lee and Coburn were given new pipe line connections from the new water system, assuring them the same quantity of water they had theretofore enjoyed. The entire expense of installing the new water system was borne by Goodwin; the water received by the other two owners of the water rights in Goodwin ravine was agreed upon in consideration of Lee and Coburn permitting the change in the method of appropriation and distribution of the water. In accordance with this plan water deliveries to consumers in Quincy were commenced at some time during the year 1878, and Lee and Coburn or their successors in interest have continued to receive water from the Quincy Water Works ever since without payment therefor. It is apparent that at the

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time water was delivered to the general public in Quincy for compensation, that so much of the waters as was sold to the general public was thereby dedicated to the public use, but as to those waters delivered to the Coburn and Lee properties and to G. W. Meylert, there was no dedication, for such waters belonged to Coburn, Lee and Meylert and were merely transported for and delivered to them by the water works. The only change in the status of these waters was in the method of handling and delivery. According to the evidence submitted this applies to the rights of Daisy L. Rogers (whose rights are referred to in the application under the name of A. J. Watson), and who has succeeded to a part of the rights of Corydon Lee; to Clark J. Lee, who has inherited the rights of his father Corydon Lee; to Yien Joe, who occupies property really owned by W. J. Miller but now under contract of sale; to J. N. Stephens and H. G. Dorsch, apparently referred to in the application as "Quincy Hardware Store," who have acquired their interests through acquisition of portions of the Coburn property, with the water rights appurtenant thereto; and also applies to the rights originating from those water rights acquired from Judge Goodwin by G. W. Meylert in 1873.

We do not wish to be understood as attempting to exercise jurisdiction to determine any question of water rights or the right of any particular individual to any particular waters or service. If such rights exist they exist by virtue of law, and can not be determined by this Commission. We do not believe, however, that the other consumers of this utility can or should be burdened with the costs necessarily incurred in rendering the service in question to the above mentioned persons, and in fixing the rates which this public utility shall charge to its public utility consumers as distinguished from those who may have private rights to any of its waters, we have taken into consideration these facts, and shall not burden the public utility consumer therewith.

There is another distinct class of water rights involved herein which arises from a source entirely different from the rights heretofore discussed. Located in a field belonging to Judge Goodwin there was a spring whose waters had been appropriated and converted to beneficial use prior to the acquisition of the property in 1860 by Judge Goodwin. This spring was no part of the water supply from the Goodwin ravine, nor has it at any time before or since the establishment of the Quincy Water Works been a part of that system. Prior to 1878 water was used from this spring by one J. W. Tregaskis for use upon certain property belonging to him, and was also so used by the predecessors in interest of certain property referred to herein as belonging at one time to Mrs. R. E. McChesney. Rights to water arising from purchase

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through various conveyances of portions of the McChesney property with appurtenant water rights thereto are now claimed by Dr. Stewart and L. P. Mori. Meryl Robertson and H. G. Hilton have succeeded to certain of the interests and water rights appurtenant to the Tregaskis property.

On July 3, 1905, an agreement was entered into between Judge Goodwin and Mrs. R. E. McChesney wherein for a consideration of $100 paid by the latter Mrs. McChesney turned over to Goodwin all her water rights in the spring in Goodwin field in return for a service connection from the Quincy Water Works system giving approximately an equivalent amount of water. On October 21, 1905, a similar agreement was made by Judge Goodwin with J. W. Tregaskis. The property containing this spring was sold by Goodwin to one Hale, who subsequently drained the land, with the result that the spring could be no longer used for a water supply.

It is apparent that the agreements entered into by Goodwin in 1905 to exchange free water from his public utility water works for the extinguishment of the rights of McChesney and Tregaskis to the spring waters arising upon his land, involved the granting of perpetual rights to water already dedicated to the public use, and are therefore subject to regulation and revision by this Commission. We have consistently adhered to the doctrine that all contracts and agreements purporting to grant to private interests perpetual and/or preferential rights in a water supply dedicated to the public result in an unfair discrimination against the regular consumers of the utility and therefore very properly may be disregarded by this Commission in the exercise of its powers in the fixing of rates. (*Southern Pacific Company* vs. *Spring Valley Water Company*, 173 Cal. 291. *Limoneira Company* vs. *Railroad Commission*, 174 Cal. 232.) This is true in the case of those rights derived through Tregaskis and McChesney. Unquestionably the same discrimination exists through those rights descending from Lee, Coburn and Meylert, but as already set out these latter rights were acquired before the waters involved therein were in fact dedicated to the public use, are private rights in character, and the Commission therefore is without authority to disregard them. (*Allen* vs. *Railroad Commission*, 179 Cal. 68.) Whatever remedies may exist for failure of the water works to deliver water under the agreements with Tregaskis and McChesney are beyond the jurisdiction of this Commission and are matters for the determination of the civil courts.

ORDER.

Mattie L. Goodwin and Grace Webb, copartners doing business under the fictitious name and style of Quincy Water Works, having applied to the Railroad Commission for authority to increase the rates charged

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for water service furnished to consumers in the town of Quincy, in Plumas County, and having also made application for a determination by this Commission of their public utility duty and obligations concerning the continued delivery of free water service to certain consumers claiming rights thereto; a public hearing having been held thereon, at which by stipulation it was agreed that these two applications be consolidated for hearing and decision, the matters having been submitted and the Commission being now fully informed thereon:

It is hereby found as a fact that the rates and charges of the Quincy Water Works for water delivered to consumers in the town of Quincy, in so far as they differ from the rates herein established, are unjust and unreasonable and that the rates and charges herein established are just and reasonable rates to be charged for such service.

And basing the order upon the foregoing findings of fact and upon the statements of fact contained in the opinion which precedes this order;

It is hereby ordered, by the Railroad Commission of the State of California that Quincy Water Works be and it is hereby authorized and directed to file with this Commission within twenty days from the date of this order, the following schedule of rates, such rates to be charged for all service rendered subsequent to January 31, 1927.

Monthly Flat Rate Schedule.

1.	Residences, boarding houses, flats, lodging houses, apartments of five rooms and less	$1 25
	For each additional room	10
	Additional for each bathtub	25
	Additional for each toilet	25
	Additional for each private garage and one automobile	25
	Additional for each private barn and one head of stock	25
	Additional for each automobile or head of stock over one	20
2.	Sprinkling or irrigation of lawns, gardens, shrubbery, etc., when taken continuously throughout year, per 100 square feet	03
	Sprinkling or irrigation of lawns, gardens, shrubbery, etc., when not taken continuously, per 100 square feet during month water is actually used	05
3.	Blacksmith shops, machine shops, lumber yards, printing offices, bakeries, undertaking parlors, grocery stores, theatres, warehouses, meat markets, drug stores, billiard parlors	1 50
4.	Ice cream parlors, soda fountains and saloons, either alone or in connection with other business	1 50
5.	Banks, professional offices, fraternal halls, club rooms, shoe shops, stores and offices not otherwise listed	1 25
6.	Restaurants, lunch counters, per unit of seating capacity	10
	Mimimum charge	2 00
7.	Barber shop, per chair	1 00
	Additional for each bathtub	1 00
8.	Laundries, according to use	3 00 to 5 00
9.	Railroad use, water motors, schools, according to use	5 00 to 8 00
10.	Hotels—dining room	2 50
	Bedrooms, each	10
11.	Public garages, 5 automobiles or less	2 50
	For each additional automobile over 5	25

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12. Stables and feed yards, per average number of stock fed per month, each		25
Private barn or garage, in connection with stores, hotels, etc., for each automobile or head of stock		25
13. Additional for each bathtub, toilet and urinal in 3 to 12 inclusive		25
14. Plumas County courthouse	20	00
15. Plumas County high school	15	00
16. Mimimum monthly charge for each service connection	1	25
17. Fire hydrants, subject to agreement by and between Quincy Fire District and Quincy Water Works.		

It is hereby further ordered, that Mattie L. Goodwin and Grace Webb, doing business under the fictitious name and style of Quincy Water Works, be and they are hereby directed and authorized to discontinue the practice of serving water free of charge to all water consumers whose claims to such free water service have been obtained through contracts or agreements entered into at a period subsequent to the dedication to the public use of the waters so served.

It is hereby further ordered, that Mattie L. Goodwin and Grace Webb, doing business under the fictitious name and style of Quincy Water Works, be and they are hereby directed to file with the Railroad Commission within thirty days from the date of this order, revised rules and regulations to govern the distribution of waters to consumers, said rules and regulations to become effective upon acceptance for filing by this Commission.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-third day of February, 1927.

DECISION No. 18023.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF COMMON CAPITAL STOCK OF THE PAR VALUE OF FIFTY MILLION DOLLARS.

Application No. 13494.

Decided February 23, 1927.

SECURITIES—STOCK—TO ISSUE AND SELL.—Application granted.

Pillsbury, Madison and Sutro, by *Alfred Sutro*, for Applicant.

BY THE COMMISSION.

OPINION.

The Pacific Telephone and Telegraph Company asks permission to issue and sell at not less than par $50,000,000 par value of its common capital stock and use the proceeds to reimburse its treasury for amounts paid into the sinking funds under its several bond issues and for its uncapitalized expenditures for fixed capital and investment accounts

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since October 31, 1922, which have not been capitalized through the proceeds derived from the sale of stock authorized by Decision No. 13369, dated April 2, 1924, and Decision No. 14418, dated December 30, 1924. The evidence shows that even though applicant requests permission to reimburse its treasury through the issue of the stock, it will actually use the proceeds to pay indebtedness to which reference will hereafter be made.

Applicant's petition shows that it has an authorized stock issue of $135,000,000 par value divided into $82,000,000 of 6 per cent cumulative preferred and $53,000,000 of common. Stock in the amount of $125,000,000 divided into $82,000,000 of preferred and $43,000,000 of common is now outstanding.

The evidence shows that the board of directors of applicant at a special meeting held on December 16, 1926, called a special meeting of its stockholders to be held on February 24, 1927, to consider and act upon the proposition of increasing applicant's authorized stock from $135,000,000 divided into 1,350,000 shares of the par value of $100 each, of which 820,000 shares are preferred stock and 530,000 shares are common stock to $185,000,000 divided into 1,850,000 shares of the par value of $100 each of which 820,000 shares shall be preferred stock and 1,030,000 shares shall be common stock and, further, to consider and act upon the proposition to amend applicant's articles of incorporation and its by-laws so that they shall state the amount of the capital stock of applicant as so increased, and the number of shares of preferred and common stock into which the same is divided.

In Decision No. 14418, Application No. 10673, to which reference is hereby made, the Commission called attention to the changes in the company's assets and liabilities from October 31, 1922, to September 30, 1924, both inclusive. The changes in the company's assets and liabilities from September 30, 1924, to December 31, 1926, both inclusive, are shown in applicant's Exhibit "A" annexed to the petition in the application now before the Commission and are as follows:

Assets.

	Sept. 30, 1924	*Dec. 31, 1926*
Intangible	$11,631,914 49	$1,119,602 37
Right of way	1,000,033 06	1,215,908 88
Land and buildings	11,537,740 36	22,196,545 52
Central office equipment	30,327,731 08	43,043,141 68
Station equipment	16,481,686 70	21,339,153 27
Exchange lines	49,044,599 93	63,752,743 92
Toll lines	29,148,603 68	35,496,906 11
Other plant	1,497,416 13	2,100,432 45
General equipment	3,264,337 73	4,373,177 33
Total fixed capital	$153,934,063 16	$194,637,611 53

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Construction work in progress	4,735,748 98	3,057,642 82
Investment securities	43,773,753 95	46,165,654 81
Advances to system corporations for construction, etc.	26,611,745 88	46,199,971 22
Miscellaneous investments	267,604 14	456,007 84
Cash and deposits	726,475 73	835,715 71
Bills receivable	204,762 10	371,482 02
Accounts receivable	5,103,385 97	4,937,377 09
Materials and supplies	2,653,430 97	2,038,801 89
Accrued income not due	157,506 15	173,372 78
Sinking fund assets	1,360 83	652,342 79
Prepayments	320,174 31	552,323 86
Unamortized debt discount and expense	3,177,964 07	2,752,086 30
Unextinguished discount on capital stock	6,875,000 00	6,875,000 00
Other deferred debits	105,027 65	53,447 80
Total assets	$248,648,003 89	$309,758,838 46

Liabilities.

Capital stock, common (authorized 53,000,000)	$18,000,000 00	$43,000,000 00
Capital stock, preferred (authorized $82,000,000)	82,000,000 00	82,000,000 00
Total capital stock	$100,000,000 00	$125,000,000 00
Funded debt	61,556,500 00	59,878,000 00
Advances from system corporations for construction, etc.	35,822,500 00	65,687,500 00
Accounts payable	3,709,354 46	4,241,724 39
Accrued liabilities not due	3,222,815 25	4,711,670 69
Liability for employees' benefit	497,075 89	1,500,000 00
Other deferred credit items	1,946,502 75	738,680 53
Reserve for accrued depreciation	33,098,628 80	38,459,614 96
Reserve for amortization of intangible capital	97,836 04	143,850 41
Surplus and undivided profits	8,696,790 70	9,397,797 48
Total liabilities	$248,648,003 89	$309,758,838 46

By referring to the company's balance sheet of December 31, 1926, it will be observed that it reports as of that date investment securities of $46,165,654.81 and advances to system corporations for construction, etc., $46,199,971.22. The investment securities include, among others, $36,086,900 of stock of Southern California Telephone Company carried on the books of applicant at $35,941,827.39.

As of December 31, 1926, applicant had advanced to system corporations $46,199,971.22 as follows:

Bell Telephone Company of Nevada	$177,000 00
Southern California Telephone Company	40,015,000 00
The Home Telephone and Telegraph Company of Spokane	1,300,000 00
Home Telephone and Telegraph Company of Pasadena	2,924,472 16
The Home Telephone and Telegraph Company of Southern Oregon	18,500 00
Ontario and Upland Telephone Company	491,999 06
Sacramento Valley Telephone Company	262,000 00
United States Long Distance Telephone and Telegraph Company	1,011,000 00
Total	$46,199,971 22

In Exhibit No. 11 applicant shows that from October 31, 1922, to December 31, 1926, it invested in fixed capital, in the redemption of

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bonds, in securities of other corporations and because of advances to other corporations, the sum of $87,498,262.68 not obtained from the sale of bonds and stock. This amount is arrived at as follows:

Fixed capital (excluding intangible capital)		$86,009,748 08
Construction work in progress—credit		3,327,018 82
Payments for sinking fund		3,779,010 53
Investment securities		32,091,797 55
Advances to system corporations		25,820,725 34
Total		$144,374,262 68
Less—		
Proceeds from sale of stock		56,875,000 00
From preferred stock (Decision No. 13369)	$21,875,000	
From common stock (Decision No. 14418)	35,000,000	
Balance		$87,499,262 68

The $87,499,262.68 has been temporarily financed through loans from the American Telephone and Telegraph Company in the amount of $65,687,500, by moneys or assets offset by accounts payable, by accrued liabilities, depreciation reserve and surplus. The evidence shows that the proceeds obtained from the sale of the $50,000,000 of stock will be used by applicant to pay indebtedness.

Applicant asks permission to offer its common stock to its stockholders at par and states that it will sell on the best terms possible any of the stock which may not be subscribed for by them. It is the belief of applicant's officers, however, that its stockholders will subscribe for all of the $50,000,000 of common stock. While we are willing to permit applicant to offer and sell the $50,000,000 of stock to its stockholders at par, we do not by such action concede the we have no authority to require a public utility to sell its stock for more than par. The facts of this case, aside from any legal consideration, warrant the sale of the stock to applicant's stockholders at par.

ORDER.

The Pacific Telephone and Telegraph Company having asked permission to issue $50,000,000 of common capital stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income and that this application should be granted as herein provided; therefore,

It is hereby ordered, as follows:

1. The Pacific Telephone and Telegraph Company may, on and after the effective date of this order issue and sell for cash on or before

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December 1, 1927, $50,000,000 par value of its common capital stock and use the proceeds to pay indebtedness set forth in its balance sheet as of December 31, 1926, and through the payment of such indebtedness finance in part the acquisition and construction of the properties described in its Exhibit No. 11.

2. The authority herein granted will become effective when The Pacific Telephone and Telegraph Company has filed with the Commission a certified copy of its amended articles of incorporation providing for an authorized stock issue of $185,000,000 divided into $82,000,000 of 6 per cent cumulative preferred and $103,000,000 of common.

3. The Pacific Telephone and Telegraph Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-third day of February, 1927.

DECISION NO. 18024.

THE WESTERN PACIFIC RAILROAD COMPANY

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY.

Case No. 2253.

Decided February 24, 1927.

RATES—STEAM RAILROADS—THROUGH—JOINT—LUMBER.—Complaint asking the establishment of through route and joint rates for the transportation of lumber and its products from points on line of complainant to points on line of defendant dismissed. Defendant having stipulated to establishing of rates through Shellville, the Commission holds itself open to future action if the principals do not reach an agreement.

James S. Moore, Jr., for Complainant.
R. W. Palmer, for Defendant.
A. Larsson, for A. Larsson Traffic Service, Intervener in favor of Complainant.
F. W. Mielke, for Southern Pacific Company, Intervener.
L. F. Brockamp, for California Sugar and White Pine Company.
H. E. Cole and *A. F. Wortman*, for California Fruit Exchange, Lumber Department.

BY THE COMMISSION.

OPINION.

Complainant is a corporation engaged as a common carrier by railroad of freight and passengers between various points within the State of California.

By complaint filed June 23, 1926, it is alleged (*a*) that public convenience and necessity require the establishment of a through route and joint rates for the transportation of lumber and its products from

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various points on the line of complainant to various points of destination on the line of defendant; (*b*) that defendant has refused to join with complainant in the establishment of a through route and joint rates and by that refusal has in the past and will in the future subject complainant and the producers and shippers of lumber located on the line of complainant to unjust discrimination and prejudice and has and will afford producers and shippers of lumber located on other lines of railroads undue preference and advantage, and (*c*) that the present rates assessed and collected are unjust and unreasonable.

The Commission is asked to establish a through route via San Francisco and just, reasonable, nondiscriminatory and nonpreferential rates for the future and to fix and establish an equitable basis of divisions.

The Haslett & Merguire Shook Company, Clover Valley Lumber Company, S. Murphy Lumber Company and Hutcherson Lumber Company intervened in behalf of complainant. The Southern Pacific Company intervened in behalf of defendant.

Public hearings were held before Examiner Geary at San Francisco October 6 and 21, 1926, and the case having been duly submitted and briefs filed, is now ready for our opinion and order.

The points of origin on complainant's line embrace the lumber producing points of Oroville and Adelaide, hereafter collectively referred to as the Oroville group, and Spanish Peak, Gray's Flat, Quincy Junction, Massack, Spring Garden, Sloat, Gromberg, Penman, Blairsden, Delleker, Portola, Calpine and Loyalton, hereafter collectively referred to as the Loyalton group. The destination points on the Northwestern Pacific Railroad may be roughtly described as including Shellville Junction, Ignacio, Sausalito, San Rafael, Tiburon, Sebastopol, Forestville, Santa Rosa, Dos Rios and all main line and branch line points intermediate thereto.

From the Oroville group complainant seeks the same joint rates as are contemporaneously in effect from Oroville and Chico on the Southern Pacific to points on the Northwestern Pacific, and from the Loyalton group the rates concurrently in effect from Weed and Westwood on the Southern Pacific with the routing via San Francisco, where traffic can be interchanged through the medium of the State Belt Railroad.

There are fifteen lumber mills in the origin territory having a combined yearly output of lumber, box and crate material totaling 246,000,000 feet, and the record indicates that in disposing of their products at points on the Northwestern Pacific the mills on the Western Pacific are more or less in direct competition with mills located at Oroville, Chico, Weed, Westwood and other points on the Southern Pacific Company.

The only joint rates now in effect from Western Pacific to Northwestern Pacific points apply on lumber from Loyalton, Delleker and Calpine to Santa Rosa, Sebastopol, Healdsburg and Ukiah. These rates

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apply via Western Pacific to Sacramento, Southern Pacific to Shellville Junction, thence Northwestern Pacific to destination and were published at the time the rail lines in California were endeavoring to establish specific rates canceling the provisions of Agent B. T. Jones' Combination Tariff C. R. C. No. 1, which based the rates on the combination of locals and are higher to Sebastopol and Santa Rosa than the contemporaneously applicable rates from Weed and Westwood. With these exceptions the rates are now combinations over the various junction points, resulting in practically every instance, rates higher than the concurrently effective rates from competing points on the Southern Pacific. For example, the present rates from Loyalton to Forestville on lumber is 41 cents and on box shook 35 cents, while the applicable rate on both lumber and box shook from Weed and Westwood on the Southern Pacific to Forestville is 31½ cents. The 41 cent lumber rate is made by combining over Fulton using the joint commodity rate in effect from Loyalton to Healdsburg, held as maximum at Fulton, plus the class B rate from the latter point to Forestville, while the 35 cent rate on box shook is a combination of commodity rates over San Francisco. The present rates from the other producing points on complainant's line are made combination over either Sacramento, Shellville Junction, San Francisco, Portola or Ukiah, whichever makes lower, and to determine the lawful charge a rate check via these different basing points must be made. This method of constructing through rates for traffic moving in volume is extremely unsatisfactory and results not only in confusion, delay and uncertainty to both the shippers and the carriers, but has made it difficult for the lumber mills on the Western Pacific to profitably market their products at points on the Northwestern Pacific.

Defendant agrees there should be joint through rates on the basis sought by complainant and at the hearing offered to establish such rates via Sacramento and Shellville Junction, using the line of the Southern Pacific as the intermediate carrier. It is urged by defendant that this is the economical and logical route for the traffic in question and that the route proposed by complainant, via San Francisco, is unduly circuitous, involves two bay transfers, two switching services by the State Belt Railroad and will result in excessive transportation costs, thus creating a burden on other traffic. The Southern Pacific Company is willing to join with complainant and defendant in establishing the rates via this route.

In view of the stipulation made by defendant to publish the rates via Shellville Junction the only question here to determine is whether the route via San Francisco sought by complainant is logical, practicable and not unduly circuitous.

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The San Francisco gateway in all cases is longer than the route through Sacramento and Shellville Junction. The average length of haul from both the Oroville and Loyalton groups to representative destination points north and south of Ignacio is 356.2 miles via San Francisco and 275.8 miles via Sacramento and Shellville Junction, or 80.4 miles further via the former route than via the latter. To points east of Ignacio, on the Sonoma Valley branch, the average distance via San Francisco is 327.9 miles and via Sacramento and Shellville Junction 222.4 miles, a difference of 105.5 miles in favor of the latter route.

In addition to a longer haul, if rates are established via San Francisco complainant will be confronted with two barge movements across San Francisco Bay, the first from Western Pacific mole to San Francisco and the second from San Francisco to Tiburon. It will also be necessary to absorb two State Harbor Commission wharfage tolls of 5 cents per ton each at San Francisco and a State Belt Railroad switching charge of $3.50 per car for movement from the ferry slip of the Western Pacific to the slip of the Northwestern Pacific. The total cost of performing this service is computed by defendant to be $11.92 per car, arrived at by using an estimated expense of $3.54 per car for the barge service from Oakland to San Francisco, $2.47 per car State Harbor Commission wharfage toll (based on an average load of 24.7 tons per car); $3.50 per car State Belt Railroad switching, and $2.41 per car barge service from San Francisco to Tiburon. The estimated expense of $3.54 for the barge service between San Francisco and Oakland represents the cost to the Southern Pacific in performing a similar service via its line. At the hearing complainant suggested if it were allowed the Shellville Junction division of earnings when the movement was via the San Francisco gateway it would assume all costs of delivering the cars to the Northwestern Pacific at Tiburon.

The proposed rate on lumber and box shook from Adelaide to Sebastopol, as representative of the Oroville group, is 27 cents, and based on the average load of 24.7 tons per car would yield a per car revenue of $133.38. If the Shellville Junction basis were used for traffic via San Francisco, as proposed by complainant, the Northwestern Pacific would receive $38.53 for a 51 mile haul and the Western Pacific $94.85 for a haul of 202.8 miles. Deducting from the latter amount $11.92 per car for the bay transfers the net earnings of the Western Pacific would be $82.93 for a haul of 199.3 miles from Adelaide to the Western Pacific mole at Oakland, or a per car mile revenue of 41.6 cents. If the tariff were hauled via Sacramento and Shellville Junction and the Northwestern Pacific received the same division it now receives on traffic from Oroville on the Southern Pacific, the Western Pacific would receive for the 64 mile haul, Adelaide to Sacramento, $47.42, or a per car mile revenue of 74.1 cents,

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From Cromberg to Sebastopol, as representative of the Loyalton group, the per car earning would be $140.79 under the proposed rate of 28½ cents. The proportion of the Northwestern Pacific via San Francisco would be $39.52 for a 51 mile haul and the Western Pacific proportion, exclusive of the amount allocated for the bay haul, would be $89.35 for a rail haul of 299.8 miles, a return of 29.8 cents per car mile. This same rate if published via Sacramento and Shellville Junction would yield the Western Pacific Railroad $69.16 per car, or 41.9 cents per car mile, for the 165 miles to Sacramento. In other words, if the rates are made to apply via Sacramento and Shellville Junction instead of San Francisco, the Western Pacific will receive a car mile revenue of 74.1 cents instead of 41.6 cents from Oroville group points and 41.9 cents instead of 29.8 cents from Loyalton group points.

Complainant maintains that with three carriers, Western Pacific, Southern Pacific and Northwestern Pacific, participating in the transportation, delays would occur in interchanging the cars at the junction points. This contention, however, is not borne out by the record, for an exhibit filed by defendant shows that during the period from January 1 to August 31, 1926, the average time for handling 25 cars of lumber from Western Pacific Railroad points to Northwestern Pacific Railroad points via Shellville Junction was 5.6 days per car, while during the same period the time required to move 35 cars via San Francisco averaged 6.1 days per car.

Interested shippers testified they would be satisfied with rates from the mills on the Western Pacific on a parity with the rates from competitors' plants on the Southern Pacific. The actual movement of tonnage via either Shellville Junction or San Francisco is of no controlling importance except in connection with the diversion privilege which, however, in this situation is seldom availed of to the destinations involved.

Operating conditions are entitled to consideration in determining the reasonableness or practicability of two routes and apart from the question of distance, which is approximately 100 miles greater through San Francisco than through Shellville Junction, the record shows the difficulties of operation through San Francisco and the various movements necessary.

Section 33 of the Public Utilities Act provides that when no satisfactory through route and joint rates exist between points and public convenience and necessity demand their establishment the Commission may order common carriers to establish the necessary route and rates subject to the provisions that where any railroad has itself an equally satisfactory route such railroad shall have the right to its local rate over the portion of the line comprised in such through route.

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When joint rates can be established over a direct route adequately responding to the reasonable requirements of the public, carriers should not, against the interests of the public, be compelled to perform wasteful transportation by maintaining the same rates over indirect and circuitous routes.

It is expected that the defendant, Northwestern Pacific, in conjunction with the Southern Pacific and Western Pacific, will promptly adjust the rates in conformity with our conclusions in this proceeding. If they do not, consideration will be given to such further action as may be necessary to put the rates into effect.

An order will be entered dismissing the complaint.

ORDER.

This case having been duly heard and submitted, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that the complaint in this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-fourth day of February, 1927.

DECISION No. 18027.

IN THE MATTER OF THE APPLICATION OF WILMINGTON TRANSFER AND STORAGE COMPANY TO ISSUE STOCK FOR PROFITS AND SURPLUS CAPITAL OF THE BUSINESS.

Application No. 13418.

Decided February 24, 1927.

SECURITIES—STOCK—TO ISSUE.—Application granted to issue and sell $65,000 of common stock, and dismissed without prejudice as to $30,000 of such stock.

Henry E. Carter, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Wilmington Transfer and Storage Company asks permission to issue at par $95,000 par value of its common capital stock for the purposes hereinafter stated.

Applicant is engaged in the business of a warehouseman at Wilmington, in the city of Los Angeles, and also the transportation of freight by trucks and a mercantile business in connection therewith. It has an authorized stock issue at this time of $250,000. Stock in the amount of $10,000 is now outstanding, substantially all of which is owned by J. P. Puckett.

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In its financial statement as of October 30, 1926, Wilmington Transfer and Storage Company reports its assets at $124,788.66 and its liabilities including its depreciation reserve at $81,254.66, leaving a net worth of $43,534. The net worth is represented by $10,000 of stock and a reported surplus of $33,534. The liabilities consist of bills payable amounting to $39,604.21 and of accounts payable of $10,382.81 and depreciation reserve of $31,267.64.

The company asks permission to issue $60,000 of stock to reimburse its treasury on account of earnings expended for properties and thereafter distribute such stock as a dividend. The record in this proceeding does not warrant the issue of $60,000 of stock for dividend purposes. Its surplus amounts to only $33,534. The order herein will permit the issue of $30,000 of stock for the purpose of reimbursing applicant's treasury, which stock applicant may thereafter distribute as a stock dividend.

Applicant further asks permission to issue and sell at par $35,000 of its common capital stock and use $20,000 of the proceeds to acquire additional stock of the Los Angeles Harbor Warehouse Company and $15,000 to purchase additional equipment and facilities.

The warehouse properties which applicant now operates are leased from the Los Angeles Harbor Warehouse Company at a rental of $1,108.50 per month. Applicant now owns $17,000 of outstanding stock of the Los Angeles Warehouse Company, which is paying dividends on its stock at the rate of 7 per cent per annum. It is applicant's intention to acquire additional stock and thereby offset its rental for the use of the buildings of the Los Angeles Harbor Warehouse Company. J. P. Puckett testified that he had no knowledge at this time as to what he would have to pay for stock of that company. His intention is to have applicant purchase the same when any of the present stockholders desire to sell, provided they offer to sell at a reasonable price.

The testimony of J. P. Puckett does not show specifically what additional equipment the company intends to acquire. It does show, however, that applicant's business is increasing and that from time to time he finds it necessary to purchase additional equipment and facilities to take care particularly of its warehouse business. In our opinion, applicant should be permitted to issue additional stock to provide itself with working capital and with funds available to acquire such equipment as it may need to conduct its business.

We do not believe that the Commission should at this time authorize applicant to issue stock for the purpose of acquiring stock of the Los Angeles Harbor Warehouse Company. In our opinion the proceeds from the sale of $20,000 of stock should be used to pay indebtedness which on October 30, 1926, is reported at $39,604.21. The payment of

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part of this debt and the elimination of interest charges may result in as great, if not a greater saving to applicant than the purchase of stock of Los Angeles Harbor Warehouse Company. We, of course, have no objection to applicant using current income to purchase stock of that company, but we do not believe that the evidence warrants the Commission to permit applicant to use stock proceeds for that purpose.

OPINION.

Wilmington Transfer and Storage Company having applied to the Railroad Commission for permission to issue $95,000 of stock, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that this application in so far as it involves the issue of $65,000 of stock should be granted and that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant, and that the expenditures therein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application in so far as it involves the issue of $30,000 of stock, should be dismissed without prejudice, therefore;

It is hereby ordered, as follows:

(1) Wilmington Transfer and Storage Company may issue on or before October 1, 1927, at not less than par, $30,000 of its common capital stock for the purpose of reimbursing its treasury on account of surplus earnings invested in its business and thereafter distribute such stock to its stockholders as a stock dividend.

(2) Wilmington Transfer and Storage Company may issue and sell for cash at not less than par on or before October 1, 1927, $35,000 par value of its common capital stock and may use $15,000 of the proceeds for working capital or for the acquisition of additional equipment and facilities necessary in the conduct of its business, and $20,000 for payment of indebtedness.

(3) This application in so far as it involves the issue of $30,000 of stock be and the same is hereby dismissed without prejudice.

(4) The authority herein granted to issue stock will become effective upon the date hereof.

(5) Wilmington Transfer and Storage Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-fourth day of February, 1927.

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Decision No. 18028.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF SONOMA FOR AUTHORIZATION PERMITTING THE CONSTRUCTION OF THE GRADE CROSSING OVER THE SANTA ROSA AND SEBASTOPOL RAILROAD, IN SECTION ——, TOWNSHIP 7 NORTH, RANGE 8 WEST, MOUNT DIABLO MERIDIAN.

Application No. 12958.
Decided February 24, 1927.

GRADE CROSSING—ELECTRIC RAILROAD—TO CONSTRUCT.—On rehearing the Commission modifies its previous order to require the carrier to file a certified copy of an agreement with Golden Gate Realty Company restricting the number of private crossings in the Leddy Tract to those in use or agreed to prior to January 1, 1927.

J. W. Ford, Assistant District Attorney, for Applicant.
Donald Geary, for Petaluma and Santa Rosa Railroad Company.
W. F. Price, for Golden Gate Realty Company of Fresno.

BY THE COMMISSION.

OPINION ON REHEARING.

This is an application by county of Sonoma for a public crossing at grade across the Petaluma and Santa Rosa Railroad at Fresno Avenue, about two miles west of the city limits of Santa Rosa. Permission to construct this crossing was given under Decision No. 17420, dated October 1, 1926, subject to certain conditions, among which were the following:

> (1) A thirty-foot dedicated public roadway shall be laid off parallel and adjacent to the south line of the railroad right of way from Wright Avenue to Fresno Avenue and a well graveled roadway suitable for public travel shall be properly constructed thereon before Fresno Avenue may be constructed across the tracks of the railroad company and opened to travel. Two-thirds (⅔) of the cost of said road shall be paid for by applicant and one-third (⅓) shall be paid for by Petaluma and Santa Rosa Railroad Company. An agreement between the interested parties, agreeing to the construction of this road and to the above apportionment of cost thereof, shall be filed by the railroad company with the Commission before the authority granted in this order shall become effective.
>
> (2) Petaluma and Santa Rosa Railroad Company shall keep its right of way fenced between Wright and Stony Point avenues and shall equip all private crossings between said avenues with gates.

On October 15, 1926, Petaluma and Santa Rosa Railroad Company, hereinafter called the railroad company, filed a petition for rehearing as to the above two conditions which petition was granted by order of the Commission dated November 18, 1926. Rehearing was had before Examiner Austin at Santa Rosa on December 2, 1926, at which time the matter was again submitted.

Petaluma and Santa Rosa Railroad Company contends that it will not be benefited by the construction of the roadway required under Condition (1) above; that the Golden Gate Realty Company is the real party in interest in the original application; that the railroad company is informed and believes that a thirty-foot roadway parallel to and along

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the south side of the railroad for use of purchasers of lots in the Leddy Tract was laid off and shown on the map of the tract on file in the county recorder's office at Santa Rosa; that lots have been sold without regard to the proposed roadway and that houses have been constructed on portions of land embraced in the proposed roadway; that three private crossings have been established for certain lot owners between Fresno and Wright avenues; that the railroad company has advised the Golden Gate Realty Company that no further crossings would be permitted and requested said Realty Company to provide such road or roads as would be necessary to serve said tract without the necessity of further crossings; that at the first hearing no testimony was offered as to the cost of the road proposed in Condition (1).

With regard to Condition (2), the railroad company states that Condition (2) of said Decision No. 17420 is in conflict with agreements in writing heretofore made by and between the railroad company and property owners in Leddy Tract, wherein at the request of property owners, the railroad company agreed that the fences along the southerly boundary of its right of way might be removed provided that the property owners, their successors and assigns would forever release said railroad company from any and all damage that might result due to the removal of the fences; that all private crossings have gates maintained thereon.

At the rehearing investigation developed the fact that the map of the Leddy Tract on file with the county recorder did not have the thirty-foot road reserved thereon as believed by railroad company and set forth in the petition for rehearing. It appears, however, that the Golden Gate Realty Company has agreed by letter to the railroad company to sell the remaining lots facing the railroad right of way with reservations establishing sufficient portions of the road required under above mentioned Condition (1) to allow purchasers of lots to reach existing crossings.

W. G. Rennison, engineer for the railroad company, testified that the half mile of road proposed under Condition (1) would cost in the neighborhood of $7,250 to construct. He also stated that the necessary drainage due to building the road would cost about $3,000 but admitted that the railroad must take care of the drainage water in any event. It therefore appears reasonable to exclude this item from the estimate. The portion of the estimate of $7,250 assessed to the railroad under the Commission's Decision No. 17420 would be $1,812.50. Although the railroad company insists that the benefit it would derive by the elimination of the existing private crossings which would result from building the road, would not justify this expenditure on its part, the Commission is of the opinion that the expenditure required is small con-

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sidering the number of crossings involved. Under ordinary conditions such an expenditure on the part of the railroad would appear well justified. In the case under consideration, however, the cost of the road outlined above, is not the only item of cost involved in carrying out Condition (1) of the order. In addition to building the road, it would be necessary to move back several residences which have been built on the lots sold without road reservations and to acquire the front of those lots from the private owners.

The opening of the proposed thirty-foot road to its full length is further complicated by the fact that the county could not legally take the road over as a county road until it was widened to forty feet as the law requires county roads to be of that width. The carrying out of these conditions would appear to work an unreasonable hardship on these lot owners, who bought in good faith and who have already arranged with the railroad company about combining certain of their private crossings in order to cut down the number required.

It therefore appears reasonable to require that a roadway be provided only for that portion of the Leddy Tract as yet unsold and it would appear reasonable that the owners of the tract should supply such a roadway and that the railroad should be exempt from paying any portion of the cost for the reason that the existing crossings are to be allowed to remain. As all of the existing private crossings have been equipped with gates and as the railroad company and the property owners have agreed as to the right of way fences, the second condition of Decision No. 17420 appears unnecessary. The original decision of the Commission in this proceeding with the exception of Conditions (1) and (2) appears just and reasonable and Decision No. 17420 will therefore be sustained subject to the withdrawal of Conditions (1) and (2) contained therein.

ORDER.

Rehearing having been held on the above entitled proceeding, the Commission being appraised of the facts, the matter being again under submission and ready for decision;

It is hereby ordered, that the Commission's order in this proceeding in Decision No. 17420, dated October 1, 1926, be and it is hereby sustained except as to Conditions No. (1) and No. (2) contained therein, and said Decision No. 17420, except as to Conditions No. (1) and No. (2) shall in all respects remain in full force and effect.

It is hereby further ordered, that Conditions No. (1) and No. (2) of said order of said Decision No. 17420 as more particularly set forth in the foregoing opinion, be and they are hereby revoked.

It is hereby further ordered, that the authority granted in Decision No. 17420, shall be subject to the following condition:

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(1) The Petaluma and Santa Rosa Railroad Company shall within ninety days and prior to the opening of Fresno avenue across the railroad tracks, file a certified copy of an agreement, duly executed, entered into by said railroad company and the Golden Gate Realty Company, which agreement shall restrict the number of private crossings across the Petaluma and Santa Rosa Railroad in the Leddy Tract to those in use or agreed to by the Realty Company and the railroad company prior to January 1, 1927, said agreement to be approved by the Commission.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-fourth day of February, 1927.

DECISION 18033.

IN THE MATTER OF THE APPLICATION OF F. J. COULTER ON BEHALF OF CALIFORNIA TRANSIT COMPANY, MOTOR TRANSIT COMPANY, PICKWICK STAGES SYSTEM, BOYD & MATTLY STAGE COMPANY, KERN COUNTY TRANSPORTATION CORPORATION, W. R. MILES STAGE LINES, YOSEMITE PARK & CURRY COMPANY, FOR AUTHORITY TO ESTABLISH THROUGH ROUTES AND JOINT PASSENGER FARES.

Application No. 13434.

Decided March 1, 1927.

RATES—AUTO STAGES—THROUGH ROUTES—JOINT FARES.—Application granted.

Earl A. Bagby, for Applicants.

H. W. Hobbs, for Yosemite Valley Railroad Company and Southern Pacific Company, Protestants.

James F. Moses, for Atchison, Topeka and Santa Fe Railway Company, Protestant.

BY THE COMMISSION.

OPINION.

This is an application filed by F. J. Coulter as agent on behalf of California Transit Company, Motor Transit Company, Pickwick Stages System, Boyd & Mattly Stage Company, Kern County Transportation Corporation, W. R. Miles Stage Lines and Yosemite Park and Curry Company, seeking authority to establish through routes and joint fares for the transportation of passengers from and to the Yosemite Valley via Briceburg and El Portal, as specifically set forth in Exhibit 1, as amended, of the application.

A public hearing was held before Examiner Geary at San Francisco January 19, 1927, and the application having been duly submitted is now ready for our opinion and order.

Applicants are engaged in the business of transporting passengers for compensation over the highways of the state, the California Transit between Los Angeles and San Francisco-Sacramento via the San

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Joaquin Valley through Fresno, Merced and Stockton and also between Stockton and Carl Inn; the Pickwick Stages System between Yuma, Arizona, and El Centro on the one hand and thence via Los Angeles and the Coast Route to San Francisco and points in northern California on the other, and also between Gilroy and Los Banos; the W. R. Miles Stage Lines between Fresno and Huntington Lake; Boyd & Mattly Stage Company between Taft and Bakersfield; Kern County Transportation Corporation between Taft and Bakersfield and Motor Transit Company between practically all points in Los Angeles County. The five last named lines make direct connections with the California Transit Company and in conjunction with that line now maintain joint fares through Fresno to Merced, Stockton, San Francisco and the intermediate points, as published in Joint Passenger Tariff C. R. C. No. 8, issued by F. J. Coulter, agent. The Yosemite Park and Curry Company operates between points in the Yosemite Valley on the one hand and on the other Fresno, Merced and Carl Inn, and connects with California Transit Company at these three points.

In Case No. 2212, Decision No. 17274, dated August 26, 1926, the Commission found that public convenience and necessity required through routes and joint fares between points served by these lines from and to the Yosemite Valley, and joint fares were authorized established through Fresno, Merced and Carl Inn via the highways then constructed, which are impassable during the winter months. Since our decision in this proceeding was rendered the new Briceburg highway from Merced to the valley has been opened for all year travel and the Yosemite Park and Curry Company is now operating over this route on a daily schedule by authority of our Decision No. 17584, November 9, 1926, and Decision No. 17763 of December 14, 1926, Application No. 12800.

The purpose of this application is to establish joint fares over the new highway in addition to the fares authorized in Case No. 2212. The proposed fares also provide that during the summer months when the roads through Carl Inn, Fresno and Merced-Wawona are open passengers may have the privilege of going in via one of the four routes and returning via another.

At the present time passengers traveling over the Briceburg road are compelled to purchase separate tickets from point of origin to Merced and from Merced into the Valley and vice versa. The testimony indicates there has been considerable demand for through tickets and that the necessity of purchasing separate tickets for the through journey has inconvenienced and placed an undue burden on the public.

The Yosemite Valley Railroad, Southern Pacific Company and Atchison, Topeka and Santa Fe Railway Company protested the granting of this application mainly upon the grounds that they had expended

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large sums of money advertising the Yosemite Valley and that the establishment of this through route and joint fares would tend to decrease the travel via rail which they claim was built up through the expensive advertising campaigns, but the record does not indicate to what extent, if any, the establishment of the proposed fares would deplete protestants' revenue. The fact is clear that the joint fares will be a decided advantage to the traveling public.

We are of the opinion and find that the application should be granted and applicants be authorized to establish the through routes and the joint fares as set forth in Exhibit 1, as amended.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered that applicants, California Transit Company, Motor Transit Company, Pickwick Stages System, Boyd & Mattly Stage Company, Kern County Transportation Corporation, W. R. Miles Stage Lines and Yosemite Park and Curry Company, be and they hereby are authorized to establish through routes and joint fares from and to the Yosemite Valley, as specifically set forth in Exhibit 1, as amended, of the application.

Dated at San Francisco, California, this 1st day of March, 1927.

DECISION No. 18034.

IN THE MATTER OF THE APPLICATION OF SAM METZGER, VERA METZGER DAVIS AND ELSA METZGER DAVIS FOR PERMISSION TO TRANSFER THEIR PROPERTY TO O. N. HIRSCH.

Application No. 13533.

Decided March 1, 1927.

TRANSFER—WATER UTILITY.—Application granted.

BY THE COMMISSION.

ORDER.

Sam Metzger, Vera Metzger Davis and Elsa Metzger Davis having made application to this Commission for authority to transfer their public utility water distribution system, which supplies water for domestic use and other purposes to some fifty consumers residing in the vicinity of Irvington and Mission San Jose, to O. N. Hirsch, who owns and operates a similar public utility water system supplying a number of consumers in the town of Irvington and vicinity; and the applicants herein and said O. N. Hirsch having made and entered into

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a written agreement dated December 23, 1926, a copy being attached to and made a part of this application, which sets forth in detail the considerations and the various conditions agreed upon and imposed as the terms upon which this transfer of property would be consummated, and it appearing that the transfer of property as proposed will result in an improvement in the water supply and service conditions for the consumers on both systems, and further that this is a matter in which a public hearing is not required and that the application should be granted;

It is hereby ordered, that Sam Metzger, Vera Metzger Davis and Elsa Metzger Davis be and they are hereby authorized to sell and transfer to O. N. Hirsch the certain public utility distribution system more particularly described in the application herein, subject to the terms and conditions of a certain agreement of transfer of the properties attached to and made a part of the application herein. The authority herein granted is subject to the following conditions:

1. The authority herein granted shall apply only to such transfer as shall have been consummated on or before May 1, 1927, and a certified copy of the deed conveying this property shall be filed with this Commission by Sam Metzger, Vera Metzger Davis and Elsa Metzger Davis within thirty days from the date on which it is executed.

2. Within ten days from the date on which Sam Metzger, Vera Metzger Davis and Elsa Metzger Davis actually relinquish control and possession of the property herein authorized to be transferred, they shall file with this Commission a certified statement indicating the date on which such control and possession was relinquished.

It is hereby further ordered, that upon the completion of the transfer herein authorized and upon the compliance by Sam Metzger, Vera Metzger Davis and Elsa Metzger Davis with the foregoing conditions, they are hereby relieved of their obligations as a public utility to supply water to consumers.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this first day of March, 1927.

DECISION No. 18036.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR PERMISSION TO CANCEL COMMODITY RATE ON EMPTY MINERAL WATER BOTTLES, RETURNING.

Application No. 13160.

Decided March 2, 1927.

RATES—STEAM RAILROAD—MINERAL WATER BOTTLES.—Application granted.

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James E. Lyons and *A. L. Whittle*, by A. L. Whittle, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by the Southern Pacific Company under section 63 of the Public Utilities Act of the State of California for permission to cancel from its Tariff 730-C, C.R.C. 2904, Item 1490-A, the commodity rate of 4 cents per 100 pounds applying from San Francisco, Oakland and Sacramento to Williams, applicable on empty mineral water bottles, returning.

The applicable rates after cancellation of the commodity rate will be Class E, as per Pacific Freight Tariff Bureau Exception Sheet No. 1-K, C. R. C. No. 384, Item No. 330.

A public hearing was held at San Francisco November 17, 1926, before Examiner Geary and the case being duly submitted is now ready for an opinion and order. Rates will be stated in cents per 100 pounds.

The rate applicant desires to cancel was first established July 28, 1909, being predicated upon 15 per cent of the concurrent rate applicable on new bottles. The commodity rate continued in effect subject to the war time changes brought about by the increases of June 25, 1918 (General Order No. 28); August 26, 1920 (Ex Parte 74), and the reduction of 10 per cent July 1, 1922 (Docket 13293).

Witness for applicant presented an exhibit and testified that the present rate was extremely low, especially when compared with the rate of 25 cents applicable on new bottles from San Francisco and Oakland to Williams, and also rates between other points in California on empty carriers, including bottles, returning for similar distances. He further testified that this commodity rate when first established was in line with rates on empty carriers, returning, between points in California as provided for in exceptions to the Western Classification; however, due to the fact that the class rates, also the Exception Sheet ratings, have since the war been amended at various times the 4 cent commodity rate is but 31, 35 and 47 per cent of what the rates would be from San Francisco, Oakland and Sacramento, respectively, if based on the current Exception Sheet ratings applicable on this class of traffic.

An exhibit was submitted showing that during a period of 18 months, from February 1, 1925, to September 30, 1926, inclusive, the total movement of empty bottles returning from San Francisco and Oakland to Williams consisted of 14 carloads; that no shipments were made from Sacramento; that the total revenue received for the 14 carloads was $178.37, or an average of $12.74 per car.

The distances between San Francisco, Oakland and Sacramento on the one hand, and Williams on the other, are 123, 119 and 62 miles, respectively, and the proposed rates compare favorably with the current

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rates of 14 cents from Los Banos and Livingston to San Francisco, and 11½ cents from Manteca to Sacramento on like traffic. The distances between these points are slightly greater than the distances between the points involved in this proceeding.

There appears no reason why mineral water bottles, returning from and to the points involved, should be given preferential rates. A careful study of the exhibits and testimony in connection with the instant rates indicates that the prevailing basis on empty carriers, returning, is that proposed by applicant and is not unreasonable.

There were no appearances in opposition, although shippers were notified of the hearing.

In Application No. 7292, January 17, 1922 (21 C. R. C. 103), wherein the short line carriers were authorized to cancel the provision providing 15 per cent of class rates for empty packages or carriers, Commissioner Loveland said:

> The rating of 15 per cent of class rate basis is one of the lowest ratings on any commodity handled by these carriers. It was further shown that these applicants, former nonfederal controlled lines, do not handle a very great volume of returned empty carriers and that the application in this proceeding was prompted more by a desire for uniformity than by the possible increase in revenue.

Upon consideration of all the facts of record we are of the opinion and find that the commodity rate of 4 cents applicable on mineral water bottles returning from San Francisco, Oakland and Sacramento to Williams is unjust and unreasonable and that the just and reasonable rates are the class E rates published in Southern Pacific Company Tariff 917-D, C. R. C. 2929. The application will be granted.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which is hereby referred to and made a part hereof;

It is hereby ordered, that the application of Southern Pacific Company be and the same is hereby granted, and applicant is hereby authorized to cancel the rate on mineral water bottles from San Francisco, Oakland and Sacramento to Williams, as set forth in the application and published in Item 1490-A, Southern Pacific Tariff 730-C, C. R. C. 2904.

Dated at San Francisco, California, this second day of March, 1927.

DECISION No. 18037.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, AND C. B. JACKSON, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALI-

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FORNIA AUTHORIZING APPLICANTS TO CONSUMMATE IN ACCORDANCE WITH ITS TERMS A CERTAIN AGREEMENT OF SALE AND PURCHASE EXECUTED BY APPLICANTS UNDER DATE OF DECEMBER 7, 1926, ETC.

Application No. 13429.

Decided March 2, 1927.

TRANSFER—WATER UTILITY—FREE SERVICE PROHIBITED.—In authorizing the consummation of an agreement for the sale of certain water plants by Pacific Gas and Electric Company to C. B. Jackson, the Commission orders the agreement amended to eliminate the provisions whereby the buyer would be obligated to furnish the seller free water service, and also to permit the seller to use certain of the property without charge. It is ordered that the seller be required to pay the regularly scheduled rates for water service to the purchaser, and also to pay a reasonable consideration for the use of any of the property involved in the transfer after title had passed to the purchaser.

C. P. Cutten, for Pacific Gas and Electric Company.
McCutchen, Olney, Mannon and Greene, by *A. C. Greene*, for C. B. Jackson.
J. L. Johnson, for the City of Stockton.

BRUNDIGE, Commissioner.

OPINION.

Pacific Gas and Electric Company and C. B. Jackson ask the Railroad Commission to enter its decision:

1. Authorizing Pacific Gas and Electric Company to sell, grant, convey, transfer and assign to C. B. Jackson or his nominee, and authorizing said C. B. Jackson to purchase and acquire from the Pacific Gas and Electric Company all of the properties which the Pacific Gas and Electric Company has agreed to sell and convey to the latter under and in accordance with the terms and provisions of the agreement of sale dated December 7, 1926; and authorizing applicants to consummate said agreement in accordance with its terms; and

2. Authorizing Pacific Gas and Electric Company upon the transfer of said properties to C. B. Jackson or his nominee to cease furnishing and supplying water service and to be relieved of the duties and functions of a water corporation in the territory in which it now furnishes water service by means of the systems to be transferred.

Generally speaking, the properties which the Pacific Gas and Electric Company ask permission to sell are all of its properties, comprising the water systems owned by it in the Cities of Stockton, Oroville, Redding, Willows, Livermore and Dixon, and all properties of every description or character, whether real or personal, connected and/or used in connection therewith, and/or appertaining to said water systems except such property as is specifically excluded in and by virtue of the agreement of December 7, 1926.

A description of the real property to be transferred is contained in the agreement of December 7, 1926 (applicant's Exhibit "A"). Modification of some of the descriptions were filed at the hearing had on this

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application on February 10th and have been marked as "Amendments to Exhibit 'A.'"

Under the agreement of December 7, 1926, which agreement is between the Pacific Gas and Electric Company, called the "seller" in said agreement, and C. B. Jackson, called the "buyer," C. B. Jackson has agreed to pay for the properties which he intends to purchase from the Pacific Gas and Electric Company as the same existed on July 31, 1926, the sum of $2,455,000. For additions to and extensions of the properties which he has agreed to purchase, subsequent to July 31, 1926, and prior to the date of the transfer of the properties, the buyer has agreed to pay the cost thereof provided that the seller will not make any substantial addition or extension subsequent to the date of the agreement and prior to the transfer of the properties to the buyer without first obtaining the consent and approval of the buyer. The agreement further provided for the prorating of taxes, insurance, rent and/or other expenses incurred by the seller in the normal operation or maintenance of the properties which have actually been paid and cover a period subsequent to the date on which the transfer of the property is consummated and likewise the prorating of taxes, insurance, rent and any other expenses incurred in or on account of the normal operation or maintenance of the properties before the date of the transfer of the properties and which are paid by the buyer after the date of said transfer. There shall likewise be prorated all revenues actually collected in advance by the seller subsequent to the date of transfer. The seller shall be entitled to any revenues collected by the buyer subsequent to the date of the transfer which are received for service rendered prior to the date of the transfer. Any obligations now resting on the Pacific Gas and Electric Company to furnish water will be assumed by C. B. Jackson. He in turn agrees to observe any contracts under which the Pacific Gas and Electric Company is furnishing water and any special rates which that company may now have in effect. As stated by the counsel at the hearing, the properties, so far as any contracts or service obligations are concerned, will be operated by C. B. Jackson in the same manner as they are now operated by the Pacific Gas and Electric Company.

Under the terms of the agreement, the buyer is obligated to construct a filter plant at Redding. From the agreement it appears that the Pacific Gas and Electric Company is selling the intake of the pumping plant at Redding, but reserves the right to take free water for its substation requirements from the intake of the pumping plant at Redding. At Willows the Pacific Gas and Electric Company is selling the pumping plant equipment from one well and agrees to lease the well to C. B. Jackson for a period of five years. The agreement provides, among other things, that if the buyer operates the plant, it will permit

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the seller to take, without charge, all of the water needed by it for the operation of its gas plant and substation in the city of Willows and that the seller shall have the right to operate said plant, without charge, but at its own expense when the buyer is not operating it for the purpose of obtaining for the seller the water it desires to supply said gas plant. Under the terms of the agreement, the seller also reserves the right of repairing, maintaining and operating the electric lines now maintained by it over and across any of the lands or properties to be sold and purchased under the agreement. I am of the opinion that any and all provisions of the agreement, whether mentioned in this decision or not, that give the Pacific Gas and Electric Company free use of and to any property that is being sold or giving the seller the right to water without charge, should be eliminated. Whatever water is furnished by C. B. Jackson to Pacific Gas and Electric Company should be furnished under rates approved by the Commission, and likewise, the Pacific Gas and Electric Company should pay a reasonable consideration for the use of any property which, under the terms of the agreement, it has agreed to sell to C. B. Jackson.

In C. B. Jackson's Exhibit No. 2, the operating revenues of the properties which he intends to purchase are reported for the year ending December 31, 1925, at $398,558.90 and for the year ending October 31, 1926, at $430,157.93. These amounts are segregated to the different systems as follows:

Particulars	*Year ended December 31, 1925*	*Year ended October 31, 1926*
Gross earnings—		
Stockton	$274,061 24	$299,899 40
Redding	37,308 62	36,915 72
Willows	19,204 79	21,360 39
Livermore	15,600 00	17,020 03
Dixon	9,793 17	9,755 26
Oroville	42,591 08	45,207 13
Totals	$398,558 90	$430,157 93

It is of record that the revenues shown above include water sales by the Pacific Gas and Electric Company to other departments of that company on the basis of regular rates of the Pacific Gas and Electric Company less 10 per cent.

While evidence was submitted in regard to the reproduction cost new and the reproduction cost new less depreciation of the properties, no examination has as yet been made by the Commission's representatives of such costs. For the purpose of this proceeding I do not believe that it is necessary to make such an examination. The order herein will not authorize the transfer of the properties to C. B. Jackson or his nominee, as requested, but only to C. B. Jackson. There is now pending before the Commission Application No. 13574, from which it appears

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that C. B. Jackson intends to transfer the properties referred to herein to the California Water Service Company. If such a request is made in connection with that proceeding or if C. B. Jackson files a new application for permission to transfer the properties to that or to any other corporation, the Commission will then determine what examination should be made of the estimated cost of the properties.

No one appeared before the Commission protesting the granting of the application. The Pacific Gas and Electric Company reports that a large part and portion of its water properties, used and useful in its public utility business of furnishing and supplying water for municipal, domestic and/or agricultural purposes, were acquired by it from its predecessors in interest in connection with the purchase and acquisition of electric plants and systems of other corporations. The company desires to cease performing the duties and functions of a public utility water corporation in the territory in which are situated the water systems and properties it has agreed to sell to C. B. Jackson and to devote its efforts in such territory exclusively to the conduct of the business and performance of the duties of an electrical or gas corporation. It is reported that none of the properties which the company asks permission to transfer are necessary or useful in the conduct of the Pacific Gas and Electric Company public utility business of generating, transmitting, furnishing, selling or delivering electricity and/or gas.

I herewith submit the following form of order.

ORDER.

Pacific Gas and Electric Company having asked permission to sell, grant, convey, transfer and assign the public utility properties referred to in this application to Mr. C. B. Jackson or his nominee and to cease to operate said properties and C. B. Jackson having asked permission to purchase the same and the Railroad Commission being of the opinion that this application should be granted subject to the provisions, terms and conditions of this order and not otherwise; therefore,

It is hereby ordered, as follows:

1. The Pacific Gas and Electric Company may sell, grant, convey, transfer and assign, on or before July 1, 1927, the public utility properties referred to in this application to C. B. Jackson who is hereby permitted to purchase, acquire and operate said properties, said transfer to be made under and in accordance with the terms of the agreement filed in this proceeding as applicant's Exhibit "A," provided that the description of the real property in said agreement be modified as indicated in the amendment to Exhibit "A" filed February 10, 1927, and, provided further, that said agreement be modified so that C. B. Jackson will not

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be obligated to furnish to the Pacific Gas and Electric Company any water, except under rates approved by the Commission; and provided further, that said agreement be modified so that C. B. Jackson shall not be required to permit Pacific Gas and Electric Company to use any of the property, which he is hereby authorized to purchase, without receiving from Pacific Gas and Electric Company a reasonable consideration for said use.

2. Pacific Gas and Electric Company, upon the effective date of this order and upon the transfer of the aforesaid properties to C. B. Jackson, may cease to furnish and supply water service and is hereby relieved of the duties and functions of a water corporation in the territory in which it now furnishes water service by means of the water systems or properties which it is hereby authorized to sell.

3. The authority herein granted will become effective upon the approval by the Commission of the rates which the Pacific Gas and Electric Company shall pay for water furnished by C. B. Jackson and of the consideration which the Pacific Gas and Electric Company shall pay for the use of any property which may be transferred under the terms of this order.

4. Within thirty days after the transfer of the properties referred to herein, C. B. Jackson shall file a certified copy of each and every deed and a certified copy of any and all other instruments of conveyance under which he acquires and holds title to said properties.

5. Within thirty days after the transfer of the properties referred to herein, Pacific Gas and Electric Company shall file with the Commission a statement showing the exact date on which it transferred the properties and relinquished possession of the same.

6. A detailed statement of the consideration which C. B. Jackson has paid or has agreed to pay for the properties, shall be filed by him with the Commission within sixty days after he has acquired said property.

7. Pacific Gas and Electric Company within sixty days after the effective date of this order shall file with the Railroad Commission a statement showing how it has or intends to use the proceeds obtained from the sale of the properties referred to herein.

8. The authority herein granted to transfer properties is on condition that applicants will not urge before this Commission that the sale and purchase price of the properties represents the value of said properties for any purpose other than the transfer herein authorized.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this second day of March, 1927.

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DECISION NO. 18038.

IN THE MATTER OF THE APPLICATION OF PEOPLES EXPRESS CO., A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF EVIDENCE OF INDEBTEDNESS.

Application No. 13559.

Decided March 2, 1927.

SECURITIES—NOTE—TO EXECUTE.—Application granted.

BY THE COMMISSION.

OPINION.

In this application Peoples Express Co. asks the Railroad Commission to make an order authorizing it to issue its promissory note in the principal amount of $60,000 secured by deed of trust.

Peoples Express Co. is engaged in the business, among others, of transporting freight between San Francisco, Oakland, Berkeley, Alameda, Piedmont, Emeryville, Fruitvale and Melrose. It appears that the corporation has incurred certain obligations, which are now outstanding, in acquiring real property used in its operations and in making additions to and improvements of its properties and equipment. The obligations, which aggregate $56,850, include a one year 6 per cent note for $40,000 dated November 10, 1925, in favor of Bank of Italy, a one year 7 per cent note for $12,500 dated November 20, 1925, in favor of California Transit Co. and four short term notes in favor of Bank of Italy in the total amount of $4,350.

Applicant proposes to use the proceeds obtained through the issue of the $60,000 note, applied for in this application, to discharge the outstanding obligations to which reference is herein made and to pay for improvements and additions to its properties and facilities and to provide working capital for its operations. The new note will bear interest at the rate of 6 per cent per annum, will be payable in monthly installments of $600 each and will be secured by a deed of trust to Bank of Italy, a copy of which is filed with the petition as Exhibit "B." This deed of trust will be a first lien on properties situated in the city of Oakland and described as follows:

> Lots numbered 5, 6, 7, 8, 9, 10 and 11 in block numbered 138, as the said lots and block are laid down and delineated upon Kellersberger's map of Oakland, on file in the office of the county recorder of said county of Alameda.

Applicant heretofore has filed financial statements with this Commission showing the results from its operations. As of December 31, 1925, it reports assets and liabilities as follows:

Assets.

Plant and equipment	$128,497 59
Cash	2,435 83
Accounts receivable	1,405 53
Total assets	$132,338 95

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Liabilities.

Capital stock	$32,000 00
Notes payable	55,150 00
Accounts payable	8,427 56
Other credit accounts	46 80
Reserve for accrued depreciation	35,058 43
Corporate surplus	1,656 16
Total liabilities	$132,338 95

L. A. Alborelli, president of Peoples Express Co., reports that the assets of the company during 1926 have increased and that, in his opinion, its earnings will be sufficient to pay the interest on the $60,000 note and the monthly installments of the principal.

ORDER.

Peoples Express Co. having applied to the Railroad Commission for permission to execute a note and the Commission being of the opinion that this is a matter in which a public hearing is not necessary and that the money, property or labor to be procured or paid for through the issue of such note is reasonably required by applicant for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Peoples Express Co. be and it hereby is authorized to execute a promissory note in the principal amount of $60,000 payable in monthly installments of $600 each and to secure the payment of the note through execution of a deed of trust substantially in the same form as the deed of trust filed with this petition as Exhibit "B."

The authority herein granted is subject to the following conditions:

1. The authority herein granted to execute a deed of trust is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the Public Utilities Act and the Auto Stage and Truck Transportation Act and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

2. Applicant may use the proceeds to be received through the issue of the note herein authorized to discharge the outstanding indebtedness of $56,850 to which reference is made in the foregoing opinion and to finance the cost of additions and improvements to its plant and properties and to provide working cash capital.

3. Applicant shall keep such record of the issue of the note herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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4. The authority herein granted will become effective when applicant has paid the fee prescribed by section 6 of the Auto Stage and Truck Transportation Act and section 57 of the Public Utilities Act, which fee is $60.

Dated at San Francisco, California, this second day of March, 1927.

DECISION NO. 18039.

WHITE PINE PRODUCTS COMPANY, INC.,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, AND SOUTHERN PACIFIC COMPANY.

Case No. 2305.

Decided March 2, 1927.

RATES—STEAM RAILROAD—LUMBER—INTERCHANGE SWITCHING. — Reparation awarded in the amount of the switching charge of $2.70 a car assessed for interchange switching between lines of defendant carriers.

BY THE COMMISSION.

OPINION.

Complainant is a California corporation engaged in the manufacture and sale of lumber and its products, with its principal place of business at Alameda.

By complaint filed January 4, 1927, it is alleged a switching charge of $2.70 per car assessed and collected on various shipments of box shook moved from Alameda on the Southern Pacific to Antioch on the Santa Fe during the period from July 28, 1924, to July 10, 1926, was unreasonable, discriminatory and in violation of sections 13 and 19 of the Public Utilities Act. Upon shipments which moved more than two years prior to the filing of the formal complaint the statute of limitations has been tolled by registering with this Commission September 15, 1925, under informal complaint No. 33443.

The line haul rates are not involved and reparation only is sought in the amount of the switching charge of $2.70 per car.

Alameda is within the switching limits of Oakland, and Item 2080-series of Southern Pacific Terminal Tariff 230-I, C. R. C. 2826, provides a $2.70 switching charge from industries located on the Southern Pacific at Alameda to interchange tracks with the Atchison, Topeka and Santa Fe Railway at Oakland, when incidental to a line haul of the latter line. On competitive traffic the Santa Fe absorbs the switching charge. Item 5-series of Atchison, Topeka and Santa Fe Railway Tariff 8117-J, C. R. C. 542, defining competitive tariff, excluded Antioch and, therefore, at the time these shipments moved there was no tariff authority for the absorption of any switching charge on shipments destined

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Antioch. Effective July 30, 1926, Item 5-series of Atchison, Topeka and Santa Fe Tariff 8117-J, C. R. C. 542, was amended so as to provide that Antioch would be considered a competitive point with the Southern Pacific, and the switching charge is now absorbed by the Santa Fe.

Defendants admit the allegations set forth in the complaint and express themselves as agreeable to making reparation, therefore, under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record, we are of the opinion and find that the assessing and collecting of a $2.70 per car switching charge in addition to the line haul rates was unreasonable and discriminatory as alleged; that complainant paid and bore the charges and is entitled to reparation, and that defendants should refund to complaint the $2.70 per car switching charge against the shipments here involved. Complainant will submit statement of shipments to defendants for check. Should it not be possible to reach an agreement as to the amount of reparation due, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and by reference made a part hereof;

It is hereby ordered, that defendants, Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, White Pine Products Company, Inc., $2.70 per car on the shipments involved in this proceeding.

Dated at San Francisco, California, this second day of March, 1927.

DECISION NO. 18040.

ASSOCIATED OIL COMPANY

vs.

SOUTHERN PACIFIC COMPANY AND CENTRAL CALIFORNIA TRACTION COMPANY.

Case No. 2307.

Decided March 2, 1927.

RATES—STEAM RAILROAD—PETROLEUM—REPARATION.—Defendant carriers directed to refund to complainant all charges collected in excess of 43 cents per 100 pounds on shipments moved from Avon to Corning, May 1 to June 1, 1923.

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BY THE COMMISSION.

OPINION.

Complainant, a corporation, organized under the laws of the State of California, with its principal place of business at San Francisco, is engaged in the producing, refining and marketing of petroleum and petroleum products. By complaint filed January 10, 1927, it is alleged that the rate charged for the transportation of 6 carloads of gasoline and refined oil shipped between May 1 and June 1, 1923, inclusive, from Avon to Corning, was unreasonable to the extent it exceeded a rate of 43 cents per 100 pounds.

The statute of limitation was tolled by registering the shipments April 29, 1925, under informal complaint No. 32802.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

Avon is 7 miles east of Port Costa on the Southern Pacific main line. Corning is located between Sacramento and Red Bluff, 20 miles south of the latter point and 233 miles from Avon via route the shipments moved. The shipments involved were routed Southern Pacific to Stockton, Central California Traction Company to Sacramento and Southern Pacific to destination. A combination rate of 47 cents was charged, made 16 cents to Sacramento and 31 cents beyond, shown in Southern Pacific Company Tariff 333-G, C. R. C. 2496, Items 470-C and 600-D. The first quoted factor is the Oakland to Sacramento rate held maximum at Avon and applicable on traffic routed via Stockton and Central California Traction Company under appropriate tariff provision.

During the period of movement there was a rate of 43 cents from Berkeley (University avenue) to Red Bluff; however, this rate applied only on traffic moving via Port Costa and Benicia, therefore was not applicable on complainant's shipments. Effective January 20, 1924, defendants established a rate of the same volume from Oakland to Red Bluff and under the provisions of Southern Pacific Company Routing Circular C. R. C. 2711 and Item 25 Southern Pacific Company Tariff C. R. C. 2496 this rate was applicable on traffic moving from Avon to Corning via Stockton and Central California Traction Company.

Complainant bases its plea for reparation upon the lower rate subsequently established. Defendants admit the allegation of the complaint and have signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assailed was unreasonable to the extent it exceeded the subsequently established rate of 43 cents. We further find that complainant paid and bore the charges on the shipments involved and

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has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendants for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Southern Pacific Company and Central California Traction Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Associated Oil Company of San Francisco, all charges they may have collected in excess of 43 cents per 100 pounds on the shipments involved in this proceeding and forwarded from Avon to Corning during the period from May 1 to June 1, 1923, inclusive.

Dated at San Francisco, California, this second day of March, 1927.

DECISION NO. 18041.

HASLETT & MERGUIRE SHOOK SUPPLY COMPANY

vs.

SOUTHERN PACIFIC COMPANY AND WESTERN PACIFIC RAILROAD COMPANY.

Case No. 2310.

Decided March 2, 1927.

RATES—STEAM RAILROAD—BOX SHOOKS—REPARATION.—Defendant carriers directed to refund to complainant $69.92 on account of excessive and unreasonable charges collected on seven carloads of box shook and crate material moved from and to points involved.

BY THE COMMISSION.

OPINION.

Complainant, a corporation, organized under the laws of the State of California, with its principal place of business at San Francisco, is engaged in selling box shook and crate material.

By complaint filed January 14, 1927, and amended January 28, 1927, it is alleged that the rates assessed and collected on 7 carloads of box shook and crate material moved from Adelaide, Gray's Flat and Portola to Suisun-Fairfield, California, during the period from

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August 1 to November 21, 1925, inclusive, was unjust and unreasonable to the extent it exceeded a rate of 18½ cents per 100 pounds from Adelaide and 22 cents from Gray's Flat and Portola.

Reparation only is sought. Rates will be stated in cents per 100 pounds:

The points of origin are located on the Western Pacific Railroad and Suisun-Fairfield is located on the Southern Pacific Company and Sacramento Northern Railroad Company, called Suisun on Sacramento Northern Railroad. The shipments involved from Adelaide, Gray's Flat and Portola were routed Western Pacific to Sacramento, Southern Pacific beyond, and the combination rate of 22½ cents, composed of 14 cents to Sacramento and 8½ cents beyond, was charged. The rates are shown in Western Pacific Railroad Tariff 36-F, C. R. C. 257 and Southern Pacific Company Tariff 917-D, C. R. C. 2929. Concurrently there were through joint rates of 18½ cents from Adelaide and 22 cents from Gray's Flat and Portola to Suisun, with routing via Western Pacific Railroad to Sacramento, Southern Pacific Company to Suisun-Fairfield, and Sacramento Northern beyond. However, these rates were not applicable on the shipments involved because of the failure to route via the Sacramento Northern Railroad and give that company a line haul. Effective May 29, 1926, defendants established rates of the same volume via route the shipments moved.

Complainant bases its plea for reparation upon the rates in effect to Suisun which were subsequently established to Suisun-Fairfield, the Southern Pacific station.

Defendants admit that the rate charged was unreasonable and have signified a willingness to make reparation adjustment; therefore, under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record, we are of the opinion and find the assailed rate was unreasonable to the extent it exceeded the contemporaneous rates applicable via the Western Pacific Railroad Company, Southern Pacific Company and Sacramento Northern Railroad Company, which rates were subsequently established from and to the points involved; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation in the sum of $69.92.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Southern Pacific Company and Western Pacific Railroad Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Haslett & Merguire Shook Supply Company,

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San Francisco, reparation in the sum of $69.92 account excessive and unreasonable charges assessed and collected for the transportation of seven carloads of box shook and crate material involved in this proceeding, forwarded during the period from August 1 to November 21, 1925, inclusive, from Adelaide, Gray's Flat and Portola to Suisun-Fairfield.

Dated at San Francisco, California, this second day of March, 1927.

DECISION No. 18048.

IN THE MATTER OF THE APPLICATION OF SUTTER-BUTTE CANAL COMPANY, A CORPORATION, TO ISSUE BONDS OF THE FACE VALUE OF NINETY-FIVE THOUSAND DOLLARS.

Application No. 13532.

Decided March 14, 1927.

SECURITIES—BONDS—TO ISSUE.—Applicant authorized to issue and sell on a 6.7 per cent basis, or better, $95,000 of its first mortgage 6½ per cent bonds, or $95,000 of its 6 per cent bonds, due March 1, 1943.

Devlin and Brookman, by *Douglas Brookman*, for Applicant.

BY THE COMMISSION.

OPINION.

Sutter-Butte Canal Company has applied to the Railroad Commission for permission to issue and sell $95,000 of its first mortgage Series "A" 6½ per cent twenty-year bonds, due 1943, for the purpose of refunding outstanding indebtedness.

The application sets forth that the corporation is engaged in the business of a public utility, distributing water for irrigation purposes to lands situate in the counties of Butte and Sutter. It appears that as of December 31, 1926, it had outstanding $1,542,800 of stock consisting of $1,219,800 of common and $323,000 of 7 per cent preferred, $850,000 of bonds, similar to those now proposed to be issued, and $119,000 of notes consisting of the following:

Payee	*Date issued*	*Date due*	*Interest*	*Amount*
Bank of Italy	Dec. 1, 1922	Nov. 30, 1923	7%	$9,000 00
Reno National Bank	Sept 15, 1926	Mch. 15, 1927	8%	50,000 00
Reno National Bank	Oct. 14, 1926	Apr. 14, 1927	8%	10,000 00
Crocker First National Bank	Aug. 30, 1926	Jan. 30, 1927	6%	40,000 00
Crocker First National Bank	Dec. 3, 1926	June 30, 1927	6%	10,000 00
Total				$119,000 00

In now asking permission to issue additional bonds against its properties, applicant reports that it proposes to use $60,000 of the proceeds to pay the notes due Reno National Bank and to use the remaining proceeds to pay in part the notes due Crocker First National Bank. The testimony shows that the money obtained through the issue of the notes or an equivalent sum was used for capital purposes in making additions, extensions and improvements to its physical properties. It shows, in

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this connection, in its Exhibit "I," that since March 1, 1923, it has expended for such purposes the sum of $129,268.51 against which no bonds have been issued. The $50,000 note due Reno National Bank, which applicant proposes to liquidate, was issued under authority granted by the Commission by Decision No. 17424, dated October 5, 1926. The issue of the other notes has not been authorized by this Commission.

The $95,000 of bonds proposed to be issued are part of an authorized issue of $2,000,000 of bonds dated March 1, 1923, and due March 1, 1943, secured by a first mortgage or deed of trust executed by applicant pursuant to authority granted by the Commission by Decision No. 12068, dated May 12, 1923. (Vol. 23, Opinions and Orders of the Railroad Commission of California, page 437.) Under the terms of the indenture $850,000 of bonds, which are now outstanding, were issuable forthwith and the remainder may be issued in amounts not exceeding 75 per cent of the actual and reasonable expenditures made on or after March 1, 1923, for extensions and additions when the net earnings of the company, before depreciation, for a period of twelve consecutive calendar months ending not more than sixty days prior to the date of making a request for the certification of additional bonds by the trustee, have been at least one and three-fourths times the total annual interest charges on bonds then outstanding plus the annual interest on the bonds for which certification is requested. The indenture further provides that bonds may be issued in series, each series to bear such rate of interest and to contain such other provision as the Board of Directors may determine at time of issue. The bonds are callable at 105.

The company asks permission to sell the $95,000 of bonds at not less than 96 per cent of face value plus accrued interest. An examination of the company's annual financial statements filed with the Commission shows revenues and expenses for the years ending December 31, as follows:

Items	*1924*	*1925*	*1926*
Operating revenues	$200,500 00	$218,522 00	$258,940 00
Operating expenses, excluding depreciation	122,934 11	132,213 78	146,372 36
Net operating revenue	$77,565 89	$86,308 22	$112,567 64
Nonoperating revenue	19,952 69	18,951 59	13,605 71
Gross corporate income	$97,518 58	$105,259 91	$126,173 35
Interest on funded debt	$55,250 00	$55,250 00	$55,250 00
Other interest	11,724 45	13,378 34	12,035 31
Balance	$30,544 13	$36,631 57	$58,888 04
Depreciation	19,709 00	19,709 00	19,000 00
Balance	$10,835 13	$16,922 57	$39,888 04
Other deductions from income	9,966 73	12,871 90	11,889 21
Profit for year	$868 40	$4,050 67	$27,998 83

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At the conclusion of the proposed financing, applicant will have $945,000 of first mortgage bonds outstanding against its properties. From time to time the Commission has had before it the matter of the value of applicant's properties, the last time being in connection with Case No. 2126, a rate proceeding, wherein the Commission used as a rate base, for the operative properties, in adjusting applicant's rates, the sum of $1,760,000 (Decision No. 16289, dated March 20, 1926, Vol. 27, Opinions and Orders of the Railroad Commission of California, page 765).

We believe that if the company issues 6½ per cent bonds that it should sell such bonds at not less than 98 or on at least a 6.7 per cent basis. We have, how so ever, no objections to the company selling a 6 per cent bond on a 6.7 per cent basis or at a price of about 93.

ORDER.

Sutter-Butte Canal Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that the application should be granted as herein provided and that the money, property or labor to be procured or paid for through the issue and sale of the bonds is reasonably required for the purpose specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Sutter-Butte Canal Company be and it hereby is authorized to issue and sell on a 6.7 per cent basis or better $95,000 of its first mortgage 6½ per cent bonds, or $95,000 of its 6 per cent bonds due March 1, 1943.

The authority herein granted is subject to the following conditions:

1. Applicant shall use $60,000 of the proceeds to be received from the sale of the bonds herein authorized, to pay its note indebtedness due Reno National Bank and use the remaining proceeds to pay in part its note indebtedness due Crocker First National Bank.

2. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $45,000.

3. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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4. The authority herein granted to issue bonds shall apply only to such bonds as may be issued on or before August 31, 1927.

Dated at San Francisco, California, this fourteenth day of March, 1927.

DECISION No. 18056.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE REASONABLENESS OF THE RATES, SERVICE, RULES, REGULATIONS AND PRACTICES OF PEOPLES CALIFORNIA HYDRO-ELECTRIC CORPORATION.

Case No. 2288.

Decided March 14, 1927.

RATES—ELECTRIC UTILITY—COMMISSION'S INVESTIGATION.—Rates established estimated to produce a return of 8½ per cent on a rate base of $162,000.

D. W. Dahlquist, for Peoples California Hydro-Electric Corporation.
Henry Sheper, for Consumers.
L. D. Mooney, for Albert Larson, a consumer.
Leonard Stone, City Attorney, for City of Fort Bragg.

BY THE COMMISSION.

OPINION.

This is a proceeding instituted by the Commission on its own motion for the purpose of making an investigation of the rates, charges, practices, rules and regulations of Peoples California Hydro-Electric Corporation, applicable to its electric light and power business in Mendocino County.

Under the authority of Decision No. 17393, dated September 25, 1926, the business and properties of Mendocino Electric Light and Power Company were transferred to Peoples California Hydro-Electric Corporation, and later, under the authority of Decision No. 17448, dated October 13, 1926, Peoples California Hydro-Electric Corporation acquired the business and properties of Fort Bragg Electric Company. On November 15, 1926, it began the operation of the two properties as a unified system.

At the present time Peoples California Hydro-Electric Corporation distributes electric energy within Mendocino County in the city of Fort Bragg and the towns of Mendocino, Caspar, Little River and Albion and in the adjacent and intervening territory. A total of approximately 1500 are supplied with lighting and power service.

Electric energy is purchased from Union Lumber Company and distributed by means of some 30 miles of distribution pole lines.

The rates now being charged on the portion of the system which was formerly operated by Mendocino Electric Light and Power Company have been in effect without change for over ten years. The rates

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charged on the balance of the system are those placed in effect in the year 1922, when metered service was first established by Fort Bragg Electric Company.

Public hearings in the present proceeding were held before Examiner Fankhauser on December 6, 1926, and February 11, 1927, testimony being introduced and the matter submitted for decision.

C. T. Mess of the Commission's engineering department submitted and explained exhibits dealing with valuation of physical properties, reasonable rate base for the year 1927, estimates of revenue and expenses for the year 1927, reasonable rate of return and proposed rates to yield such rate of return.

No evidence as to the proper rate base, revenues or operating expenses was submitted by either Peoples California Hydro-Electric Corporation or the city of Fort Bragg, represented by its city attorney, Leonard Stone, or by anyone else, other than C. T. Mess.

The evidence before the Commission shows the reasonable rate base for the year 1927 to be $162,000, details of which are set forth below:

Estimated Rate Base 1927

Peoples California Hydro-Electric Corporation.

Intangible capital		$5,050 00
Production capital		50,550 00
Distribution capital		99,900 00
General and miscellaneous		1,500 00
Fixed capital as of December 31, 1927 (est.)		$157,000 00
Fixed capital as of December 31, 1926		147,200 00
Average fixed capital year 1927		$152,100 00
Working capital		11,000 00
		$163,100 00
Consumers' advances		1,100 00
Rate Base		$162,000 00

Annual revenue from existing rates, if continued, will for the year 1927 approximate $65,000, segregated as follows:

Estimated Revenues 1927.

Peoples California Hydro-Electric Corporation.

Lighting	$55,300 00
Power	6,500 00
Street lighting	3,200 00
Total	$65,000 00

Reasonable operating expenses, including taxes and depreciation annuity, are estimated at $50,000, as shown in the following tabulation:

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Estimated Operating Expenses 1927.

Peoples California Hydro-Electric Corporation.

Operation—		
Superintendence	$3,000 00	
Purchasing power	19,560 00	
Office rent, supplies, etc.	1,140 00	
Salaries of local employees	4,800 00	
General office expense	1,200 00	
Law expenses	600 00	
Insurance	385 00	
Relief and welfare	900 00	
Bad debts	300 00	
Meter installations	720 00	
Distribution labor	1,200 00	
Transportation	700 00	
		$34,505 00
Maintenance—		
Poles, etc.	$2,436 00	
Overhead conductors, etc	1,920 00	
Transformers	240 00	
Meters	84 00	
Services	480 00	
Transportation	1,200 00	
		$6,360 00
Taxes		5,700 00
Depreciation		3,435 00
Total expense		$50,000 00

Consideration of the above estimates of revenue and expenses indicates a net revenue of $15,000, or a return of 9.25 per cent upon the reasonable rate base. The rates prescribed by the order following will yield about 8½ per cent. The operating expenses, however, include no allowance for the purchase of oil under the company's power contract or for extraordinary maintenance.

Counsel for the company stipulated that his company was willing to put the rates proposed by C. T. Mess in effect and that if such rates result in revenues that the company feels under all the circumstances can be reduced, it is their intention to reduce them. The city attorney for Fort Bragg raised no objection to placing the proposed rates into effect, but requested that the rates be regarded as tentative and that this proceeding be kept open, and that the Commission after a definite period, say, a year, review the results produced by the rates put into effect by the Commission's order. We have considered the request of the city attorney but feel that in view of our procedure in matters of this kind there is no necessity to keep this proceeding open.

A general analysis of the existing rates indicates the necessity of standardizing the schedules with due recognition to special classes of service. Such standardization is of particular importance in the present instance as two former systems with differing rate schedules are now operating as a single system. To continue in effect differing rates for the same class of service is discriminatory. The rates proposed by C. T.

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Mess remove the discrimination and such rates, with a slight modification, will be placed in effect.

ORDER.

The Railroad Commission having instituted a proceeding on its own motion to make a complete investigation of the rates, service, rules, regulations and practices of Peoples California Hydro-Electric Corporation in Mendocino County, hearings having been held, the matter submitted and now being ready for decision:

The Railroad Commission hereby finds as a fact that the electric rates of Peoples California Hydro-Electric Corporation are not just and reasonable rates in so far as they differ from the rates herein established, which rates are found to be just and reasonable.

Basing this order on the foregoing findings of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that

1. Peoples California Hydro-Electric Corporation be and it is hereby authorized to charge and collect for electric service rendered, effective for all regular meter readings taken on and after March 29, 1927, the schedule of rates as set forth in Exhibit "A," said exhibit being attached hereto and made a part hereof.

2. Peoples California Hydro-Electric Corporation shall file with the Railroad Commission on or before March 25, 1927, the schedule of rates herein established.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourteenth day of March 1927.

EXHIBIT "A."

SCHEDULE L-1.

(Cancels Schedule L-1, Fort Bragg Electric Company.)

General Lighting Service.

Applicable to general domestic and commercial lighting service, including household appliances and single phase motors of not to exceed 3 horsepower total capacity.

Territory.

Applicable within the corporate city limits of Fort Bragg and adjacent territory supplied by means of 2300 volts distribution circuits.

Rate.

First	30 k.w.h. per meter per month	10	cents per k.w.h.
Next	170 k.w.h. per meter per month	7	cents per k.w.h.
Next	300 k.w.h. per meter per month	5	cents per k.w.h.
All over	500 k.w.h. per meter per month	4	cents per k.w.h.

Minimum charge—
$1.25 per meter per month.

Special Conditions.

Single phase motors of an aggregate capacity of 3 horsepower or less may receive service under, or will be combined with, general lighting service under this schedule of rates at the option of the consumer provided that in case of combination service, the total energy is supplied through one meter.

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The minimum charge applicable to this combination service is only that minimum charge set forth above.

SCHEDULE L-2.

(Cancels Schedule L-1, Fort Bragg Electric Company and Schedule No. 1, Mendocino Electric Light & Power Co.)

General Lighting Service.

Applicable to general domestic and commercial lighting service, including household appliances and single phase motors of not to exceed 3 horsepower total capacity.

Territory.

Applicable to all territory except within the corporate city limits of Fort Bragg and adjacent territory supplied by means of 2300 volts distribution circuits.

Rate.

First	30 k.w.h. per meter per month	11	cents per k.w.h.
Next	170 k.w.h. per meter per month	8	cents per k.w.h.
Next	300 k.w.h. per meter per month	5	cents per k.w.h.
All over	300 k.w.h. per meter per month	4	cents per k.w.h.

Minimum charge—
$1.25 per meter per month.

Special Conditions.

Single phase motors of an aggregate capacity of 3 horsepower or less may receive service under, or will be combined with general lighting service under this schedule of rates at the option of the consumer provided that in case of combination service, the total energy is supplied through one meter.

The minimum charge applicable to this combination service is only that minimum charge set forth above.

SCHEDULE L-3.

Lumber Mill Lighting Service.

Applicable to lumber mill lighting service, including single phase motors of not to exceed 3 horsepower total capacity.

Territory.

Applicable to entire territory served.

Rate.

First	300 k.w.h. per meter per month	6	cents per k.w.h.
Next	700 k.w.h. per meter per month	5	cents per k.w.h.
All over	1000 k.w.h. per meter per month	4	cents per k.w.h.

Minimum charge.
$1.25 per meter per month.

Special Conditions.

Single phase motors of an aggregate capacity of 3 horsepower or less may receive service under or will be combined with general lighting service under this schedule of rates at the option of the consumer provided that in case of combination service, the total energy is supplied through one meter.

The minimum charge applicable to this combination service is only that minimum charge set forth above.

SCHEDULE L-4.

(Cancels Schedule L-1, Fort Bragg Electric Company.)

Street Lighting Service.

Applicable to service to street, highway and other public outdoor lighting installations with bracket mast arm or center suspension construction and supplied from overhead lines where the company owns and maintains the entire equipment.

Territory.

Applicable to entire territory served by the company.

Rate.

	Lamp rating	*Monthly charges per lamp*
Series lamps	80 candle power	$1 50
	100 candle power	1 75
	250 candle power	3 50
	400 candle power	4 00

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	Lamp rating	Monthly charge, per lamp: Present equipment	Monthly charge, per lamp: Standard equipment
Multiple lamps	15 watts	$1 00	
	25 watts	1 25	
	40 watts	1 50	$1 75
	60 watts	1 75	2 00
	100 watts	2 25	2 75
	150 watts	2 75	3 10
	200 watts	3 25	3 60
	300 watts	3 75	4 30

Special conditions.

(a) All night service, equivalent to 4000 hours per year, will be furnished under this schedule.

(b) Under the above schedule the company bears the installation, maintenance and operating expenses and provides all necessary lamp removals.

(c) Standard equipment for multiple circuits includes iron brackets, radial wave reflectors, etc. Rates for present multiple equipment to apply only until standard equipment is installed.

(d) Series lighting service will not be supplied for circuits of less than ten (10) lamps.

SCHEDULE C-1.

General Heating and Cooking Service.

Applicable to general domestic and commercial heating and/or cooking service.

Territory.

Applicable to entire territory served.

Rate.

First 150 k.w.h. per meter per month---------- 5 cents per k.w.h.
All over 150 k.w.h per meter per month---------- 3 cents per k.w.h.

Minimum charge.

First 5 k.w. or less of heating or cooking capacity----------$3 00 per month
All over 5 k.w. of heating or cooking capacity-------50 cents per k.w. per month

Special Conditions.

(a) Connected load will be taken as the name plate rating of heating and cooking appliances permanently installed and which may be connected at any one time computed to the nearest one-tenth of a k.w.

(b) Single phase motors aggregating 3 horsepower or less may be combined with heating and cooking service under this scheedule, in which case each horsepower of motor load will be considered as one kilowatt in determining the minimum charge.

SCHEDULE C-2.

(Cancels P-1, Fort Bragg Electric Company.)

Domestic Combination Service.

Applicable to general domestic lighting in combination with heating and cooking service.

Territory.

Applicable to entire territory served.

Rate.

First 30 k.w.h. per meter per month----------at general lighting schedule
Next 120 k.w.h. per meter per month---------- 5 cents per k.w.h.
All over 150 k.w.h. per meter per month---------- 3 cents per k.w.h.

Minimum charge.

First 5 k.w. or less of heating and cooking capacity----------$3 00 per month
All over 5 k.w. of heating and cooking capacity----50 cents per k.w. per month

Special Conditions.

(a) Service under this schedule will be supplied only where applicant permanently installs cooking and heating appliances (other than lamp socket devices) of at least 2 kilowatt capacity.

(b) 110-220 volt, 3-wire service will normally be supplied.

(c) Minimum charge will be based on the total load which may be connected at any one time.

(d) Connected load will be taken as the name plate rating of the installed heating and cooking appliances computed at the nearest 1/10 of a kilowatt.

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(c). Single phase motors may be combined with heating and cooking service under this schedule in which case each horsepower of motor load will be considered as 1 kilowatt in determining the minimum charge.

SCHEDULE P-1.

(Cancels Schedule P-1 of Fort Bragg Electric Company.)

General Power Service.

Applicable to general power service.

Territory.

Applicable to entire territory served.

Rate.

First	100	k.w.h. per month	5	cents per	k.w.h.
Next	200	k.w.h. per month	4	cents per	k.w.h.
Next	700	k.w.h. per month	3	cents per	k.w.h.
All over	1000	k.w.h. per month	2½	cents per	k.w.h.

Minimum charge—

$1.00 per horsepower of connected load per month but not less than $3.00 per month.

Special Conditions.

(a) Voltage: Service under this schedule will be rendered at standard voltages.
(b) Rectifier battery chargers and moving picture projectors may obtain service under this schedule. For the purpose of determining rates and minimum charges each kilowatt of such appliances will be taken as 1 horsepower of connected load.

DECISION No 18060.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO CLOSE AGENCY AT RAISIN CITY, COUNTY OF FRESNO, STATE OF CALIFORNIA.

Application No. 13217.

IN THE MATTER OF THE APPLICATION OF THE AMERICAN RAILWAY EXPRESS COMPANY FOR AUTHORITY TO ABANDON ITS AGENCY AT RAISIN CITY, COUNTY OF FRESNO, STATE OF CALIFORNIA.

Application No. 13558.

Decided March 14, 1927.

ABANDON—JOINT AGENCY—STEAM RAILROAD—EXPRESS.—Application granted.

H. W. Hobbs, for Applicant in Application No. 13217;
G. S. Reed, for Applicant in Application No. 13558;
G. J. Champion, Chas. G. Ross and *Frank Gordon*, of Raisin City, protesting the granting of Application No. 13217.

BY THE COMMISSION.

OPINION.

In Application No. 13217, Southern Pacific Company, a corporation, has petitioned the Railroad Commission for an order authorizing the closing of its agency station at Raisin City on its San Joaquin Division in Fresno County until such time as sufficient traffic will have been developed to justify the maintenance of an agency.

In Application No. 13558, American Railway Express Company, a corporation, has petitioned the Railroad Commission for an order authorizing the discontinuance of its agency now maintained at Raisin City in Fresno County, alleging that its agency is now maintained jointly

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with the railroad agency of the Southern Pacific Company at that point; that if the application of said Southern Pacific Company as now pending before the Railroad Commission be granted, then arrangement of joint agency will not be possible; and that, after investigation, it has been found that no suitable person is available to act as agent for said applicant.

A public hearing on these applications was conducted by Examiner Handford at Fresno, the matters were consolidated for the receiving of evidence and for decision, were duly submitted and are now ready for decision.

An exhibit attached to Application No. 13217 shows the following data as reflecting the business handled by applicant Southern Pacific Company at its station of Raisin City during the yearly period ending June 30, 1926:

Agency ticket sales		$16 00
Less than carload freight—		
Received	$617 00	
Forwarded	96 00	713 00
Total ticket sales and less than carload freight revenues		$729 00
Carload freight—		
Received	$8,387 00	
Forwarded	630 00	9,017 00
Total revenue		$9,746 00

Average monthly station expense $147.44.

From the above statement the following computation has been made: Percentage of revenue from ticket sales and less than carload freight required for station expenses: 242.70 per cent, Percentage of total revenue required for station expense: 18:15 per cent.

P. W. Barnard, representing the general manager's office of applicant Southern Pacific Company, testified regarding his investigation of the revenue derived from the agency station at Raisin City and the result of his study was contained in a statement filed as an exhibit at the hearing.

The following comparative figures have been abstracted from the exhibit and are of interest:

Comparison of Revenue.

	Calendar year	
	1925	*1926*
Passenger tickets sold	$16 00	$6 00
Less than carload freight (received and forwarded)	879 00	635 00
Total tickets sold and less than carload freight revenues	$895 00	$641 00
Carload freight (received and forwarded)	8,475 00	10,963 00
Total revenue	$9,370 00	$11,604 00

Station expense for calendar year 1926 $1,708.

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From the above statement it appears that the percentage of revenue required for the maintenance of agency facilities is as follows:

Percentage of revenue derived from tickets sold and less than carload freight, required for station expense: 190.84 per cent in 1925 and 266.46 per cent in 1926. Percentage of total revenue required for station expense: 18.23 per cent in 1925 and 14.72 per cent in 1926.

It will be noted that practically no passenger business is transacted at this station and that there has been a decrease in the revenue received from less than carload freight business. These are the items for which the services of a railroad agent are most necessary for the public. While an increase in the revenue arising from carload shipments appears for the year 1926 over the previous year, shipments of road oil were responsible for such increase and there is no prospect of similar shipments moving in the immediate future.

E. S. Weir, assistant superintendent of the San Joaquin Division of applicant Southern Pacific Company, testified as to the train service now furnished the station of Raisin City, one mixed train daily, in each direction, being operated. This witness also described the manner in which the station would be operated as a nonagency in the event of the granting of the application, it being the intention of the applicant to place a key for the freight warehouse in the hands of some responsible person in the community, thereby enabling shipments to be protected from the elements or from theft or pilferage. The nearest agency stations to Raisin City are Kerman, 12.1 miles westerly, and Caruthers, 5.6 miles easterly.

G. S. Reed, route agent for applicant American Railway Express Company, testified that the agency at Raisin City was conducted by the agent of the Southern Pacific Company, such agent working for both applicants. The average number of express shipments during the past year has been 29 per month, producing an average monthly revenue of $32.93. Applicant has not been successful in securing any responsible local merchant to act as its agent on a commission basis, due to the small volume of business and resultant small compensation. In the event of the discontinuance of the express agency, the witness described the service that would be available, express being received or delivered by the train messenger at the car door, or if destined to Raisin City prepaid and so marked, would be put off at that point at owner's risk.

G. J. Champion, residing at Raisin City, testified that he was a shipper of poultry and eggs by express, same being destined to San Francisco Bay points. Some poultry feed was received by local freight. As this witness lives some distance from the station, the irregular train arrivals of the mixed train operating on the Raisin City branch would make it inconvenient in the shipment of his express and might necessitate the transfer of his shipments to Caruthers, an agency station.

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although to do so would necessitate a seven-mile trip each time shipments were to be made.

Frank G. Gordon, of Raisin City, testified as to the prospect for additional tonnage being available, stating that many vineyards had been planted, some of which were now about to become productive, and that the first carload of grapes had been shipped from Raisin City during the 1926 season.

We have fully considered the evidence and exhibits in these proceedings. From the foregoing analysis of the exhibits it is apparent that the continued maintenance of an agency station by applicants Southern Pacific Company and American Railway Express Company is not justified by the volume of business transacted at said station, and that said authority should be granted for the discontinuance of said agencies until such time as traffic conditions will justify their reestablishment.

ORDER.

A public hearing having been held on the above entitled applications, the matters having been consolidated for the purpose of receiving evidence and for decision, having been duly submitted, and the Commission being now fully advised;

It is hereby ordered, that applicant Southern Pacific Company, a corporation, be and the same hereby is authorized to discontinue the maintenance of an agent at its station of Raisin City on its San Joaquin Division in Fresno County, and to hereafter operate said station of Raisin City as a nonagency station until the further order of this Commission; and

It is hereby further ordered, that applicant American Railway Express Company, a corporation, be and the same hereby is authorized to discontinue the operation of an agency at Raisin City in Fresno County and to hereafter serve said Raisin City as a nonagency with receipt and delivery of express by train messenger at the car door until otherwise authorized by this Commission.

The effective date of this order is hereby fixed as twenty days from the date hereof.

Dated at San Francisco, California, this fourteenth day of March, 1927.

DECISION No. 18062.

IN THE MATTER OF THE APPLICATION OF LEWIS A. MONROE, AS AGENT FOR LOS ANGELES AND SANTA BARBARA MOTOR EXPRESS COMPANY, INC., FOR AUTHORITY TO READJUST CLASS AND COMMODITY RATES BETWEEN LOS ANGELES AND CARPINTERIA, SUMMERLAND, SANTA BARBARA AND GOLETA.

Application No. 13327.

Decided March 14, 1927.

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RATES—MOTOR EXPRESS—CLASS RATES.—Application dismissed.

Hugh Gordon, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application filed by Lewis A. Monroe, as agent for the Los Angeles and Santa Barbara Motor Express Company, Inc., of Los Angeles, seeking authority to readjust class rates and expedited express rates applying between Los Angeles and Carpinteria, Summerland and Santa Barbara resulting in material increases, and also readjusting class rates at Goleta, resulting in increases and reductions.

A public hearing was held before Examiner Geary at Los Angeles January 14, 1927, and the application having been duly submitted is now ready for our opinion and order.

The present proposed class rates are shown below:

Los Angeles and		*Miles*	*1*	*2*	*3*	*4*
Carpinteria—	Present	101	68	52	45	37
	Proposed		77	61	52	43
Summerland—	Present	106	72	56½	49	40½
	Proposed		80	62	55	45
Santa Barbara—	Present	113	72	56½	49	40½
	Proposed		80	62	55	45
Goleta—	Present	119	78	64	55	46
	Proposed		80	62	55	45

The present and proposed expedited express rates are as follows:

Los Angeles and		*Fresh Meats*	*Other Perishables*
Carpinteria—	Present	80	68
	Proposed	90	90
Summerland—	Present	80	72
	Proposed	90	90
Santa Barbara—	Present	80	72
	Proposed	90	90

The operative rights of the applicant originally extended between Los Angeles and Santa Barbara, granted by Application No. 5005, and included rights on either side of the highway for a distance of 10 miles. This right was extended in Application No. 10748 to include San Luis Obispo, with minor restrictions at intermediate points.

By Application No. 12919 of June 25, 1926, applicant acquired the Tucker Truck and Transportation Company, with operating rights between Los Angeles and stations north and west thereof to and including San Luis Obispo.

In Decision No. 16785, Applications Nos. 12702, 12703 and 12705, March 31, 1926, the Commission had before it requests for increased rates via the lines of the three certificated carriers then operating in this general territory. Application No. 12702 was the petition of Los Angeles and Oxnard Daily Express; Application No. 12703 the petition of this applicant, and Application No. 12705 the petition of

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Tucker Truck and Transportation Company for permission to adjust the class rates between Los Angeles and Fillmore, Santa Paula, Saticoy and Ventura. The issues were joined and the petitions were granted.

Subsequent to the order in the above proceedings the rates via applicant's (Los Angeles and Santa Barbara Motor Express Company) line were:

Between	*1*	*2*	*3*	*4*
Los Angeles and Fillmore	59½	47	39½	31½
Authorized	60	50	40	30
Los Angeles and Santa Paula, Saticoy, and Ventura	62½	47	39½	31½
Authorized	60	50	40	30

At the same time there was a certificated line operating over that part of the route between Los Angeles and Ventura and thence to Ojai, under the name of Ojai-Ventura and Los Angeles Express. This company, by Application No. 12704, submitted June 17 and decided July 2, 1926, petitioned to increase its rates to a parity with those granted in Decision No. 16785, supra. The express purpose of these adjustments was to create a parity of rates between the four lines at competitive points. The same rate progression extended beyond Ventura would result in lower rates between Los Angeles and Santa Barbara than those now in effect.

On a strictly mileage basis there appears no justification for the proposed increases and if increases are to be made because of failure of the rates to yield a fair return on the investment the conclusion must be that a readjustment of all rates is necessary.

By Exhibit No. 3 it is shown that the labor costs for making deliveries at Santa Barbara are greater than at other points. This situation if justified could be taken care of by the establishment of defined delivery zones at Santa Barbara and the publication of proper charges to cover the accessorial service rather than by excessive line haul rates at all points.

By its Exhibit B, attached to the petition, applicant shows a total of 1023 tons for the month of June, 1926, at Santa Barbara, Summerland and Carpinteria, with a total revenue of $11,125.89. The proposed rates would produce $12,415.19, an increase of $1289.30. Of this amount 90 per cent, or $1,170.52, is secured from the Los Angeles-Santa Barbara tonnage. Taking June as a representative month the increase at Santa Barbara for one year would be $14,046.24 and at the three stations $15,471.60. June, however, is not representative, as is shown by Exhibit No. 3 introduced at the hearing. This exhibit shows a total of 7940 tons for the six months' period ending June 30, 1926, or 1323 tons per month as against 1023 tons for June. Taking the figures given in Exhibit No. 3 the revenue for six months would be increased from $86,409.20 under the present average earning of $10.88

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per ton to $96,312.20 under the proposed average of $12.13 per ton, or $9,903 for six months, approximately $20,000 per year.

The balance sheet (Exhibit No. 1) gives a total cost of plant and equipment as $202,609.64, a depreciation reserve of $99,114.03 and a net of $103,495.61. The same exhibit gives revenue and expenses for nine months ending September 30, 1926, and purported to show a net operating loss of $1,453.75. The exhibit furnishes no supporting data, nor was applicant's witness at the hearing able to supply such data.

Applicant sets up an annual depreciation of 25 per cent for trucks and equipment and 15 per cent for shop and office equipment, and on this basis includes $39,019.56 in the expenses for the first nine months of 1926. The 25 per cent appears excessive in view of the fact that trucks and trailers are still in the service which have had more than four years of use. In August, 1926, applicant purchased four new trucks and gave in part payment three White trucks of 1920 model and one of 1921 at a value of $2,000 each, or $8,000. No mention of this transaction is shown in Exhibit 1.

Since the submission of this proceeding applicant filed with the Commission February 26, 1927, its annual report for the year ending December 31, 1926. This report shows transportation revenue $327,700.75, transportation expenses $315,342.59, net operating revenue $12,358.16. These figures for twelve months show a net operating revenue of $12,358.16 and, therefore, are not in harmony with Exhibit No. 1, claiming a loss, before the deduction of interest charges, for the nine months ending September 30, 1926, of $1,453.75. The annual report showed a total deduction for depreciation of plant and equipment for the year 1926 of $46,595.75 which, as heretofore stated, appears excessive, but even if admitted that the depreciation included in operating expenses were fair, applicant earned in excess of 6 per cent on the claimed value of plant and equipment of $200,054.85 as of December 31, 1926. Manifestly, to permit the increasing of rates as proposed and adding another $20,000 to the gross earnings would produce excessive net profits. The proposed rates have not been justified; the application will be denied and the proceeding dismissed.

ORDER.

A public hearing having been held in the above entitled proceeding, evidence having been submitted by the applicant, and the Commission being fully advised;

It is hereby ordered, that the application of the Los Angeles and Santa Barbara Motor Express Company, Inc., to readjust the class rates between Los Angeles and Carpinteria, Summerland, Santa Barbara and Goleta be and the same is hereby dismissed.

Dated at San Francisco, California, this fourteenth day of March, 1927.

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DECISION No. 18064.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL ONE MILLION FIVE HUNDRED THOUSAND DOLLARS PAR VALUE OF ITS COMMON CAPITAL STOCK.

Application No. 13361.

Decided March 14, 1927.

SECURITIES—STOCK—TO ISSUE AND SELL.—Appplication granted.

Le Roy M. Edwards, for Applicant.

BY THE COMMISSION.

OPINION.

Southern Counties Gas Company of California asks permission to issue and sell for cash at par to the Pacific Lighting Corporation $1,500,000 of its common capital stock and use the proceeds for the purposes hereinafter set forth.

Applicant has an authorized stock issue of $25,000,000 divided into 250,000 shares of the par value of $100 each. The authorized stock is divided into $12,500,000 of common, $5,000,000 of 7 per cent cumulative preferred and $7,500,000 of 6 per cent preferred. The company has outstanding at this time $1,500,000 of common and $2,500,000 of its 7 per cent preferred stock. Its bonded indebtedness, consumers' advances, depreciation reserve and accumulated surplus, as of December 31, 1926, appear in the following balance sheet, which has been filed with the Commission as part of the company's annual report.

Assets and Other Debit Accounts.

Fixed capital in service		$17,385,528 05
Current and accrued assets		2,123,374 55
Cash	$917,061 13	
Special deposits	2,057 55	
Notes receivable	49,004 08	
Accounts receivable	667,086 77	
Interest and dividends receivable	19,265 99	
Marketable securities	39,000 00	
Materials and supplies	429,899 03	
Sinking fund		1 66
Deferred debit items		729,404 66
Unamortized debt discount and expense	$709,323 76	
Work in progress	200 00	
Prepayments	13,880 90	
Miscellaneous deferred debits	6,000 00	
Discount on capital stock		836,630 69
Total		$21,074,939 61

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Liabilities and Other Credit Items.

Capital stock outstanding		$4,000,000 00
Long term debt		10,943,400 00
Current and accrued liabilities		1,107,100 12
Accounts payable	$733,391 45	
Consumers' deposits	80,066 66	
Dividends declared but unpaid	43,692 12	
Taxes accrued	147,552 06	
Interest accrued	102,397 83	
Consumers' advances for construction		1,143,895 47
Depreciation reserve		1,973,958 24
Capital surplus		97,865 73
Unappropriated surplus		1,808,720 05
Total		$21,074,939 61

Applicant alleges that its general financial condition will be improved if it is permitted at this time to sell $1,500,000 par value of its common capital stock and that the issue of such an additional amount of stock will place it in a better position to take care of its general corporate requirements and the constant demands for the improvement and betterment of its properties. It reports that it can not at this time state definitely just how the money to be derived from the sale of the common stock will be applied, but that it is its purpose to use said money in part to cover the cost of acquiring and constructing the properties referred to in its Exhibit "H" and to use part of the money to reimburse its treasury for payments heretofore made for capital expenditures from surplus earnings or for other general corporate purposes as to the Commission may be deemed proper.

The company has submitted statements in which it reports its uncapitalized construction expenditures at $2,717,896.53. W. S. McFarland, secretary of the company, testified that in his opinion the company was warranted in asking the Commission to use about $750,000 obtained from the sale of the $1,500,000 of stock to reimburse its treasury. An analysis of the company's financial statement supports such conclusion. We believe that the company's proposal to use but one-half of the proceeds obtained from the sale of stock to reimburse its treasury makes it unnecessary to accurately determine the amount of the company's uncapitalized expenditures. We are satisfied that the company's uncapitalized construction expenditures exceed the sum of $750,000.

Applicant in its Exhibit "H" reports its estimated capital expenditures for 1927 at $1,750,000. This amount is segregated as follows:

New business—main extensions	$800,000 00
Holders—3000 M at $1.20 M	360,000 00
6-inch line to Laguna	135,000 00
8-inch line Huntington Beach to Garden Grove	55,000 00
Purchase of system—Huntington Beach	75,000 00
Contingency betterments	175,000 00
Betterments in advance by paving	150,000 00
Total	$1,750,000 00

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While applicant was not in a position to inform the Commission definitely of its expenditures for each of the items mentioned, the record does show that its total construction expenditures are estimated at the amount stated. We believe that the issue of $1,500,000 of stock should be authorized, but that $750,000 of the proceeds should be placed on deposit with a bank or trust company and expended only for such purposes as the Commission will hereafter authorize by supplemental order or orders. As the company proceeds with its 1927 construction program, it should file with the Commission supplemental applications setting forth expenditures actually incurred, and request permission to use proceeds from the sale of the stock to finance such expenditures.

ORDER.

Southern Counties Gas Company of California having asked permission to issue $1,500,000 of common stock, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted as herein provided; therefore,

It is hereby ordered, that Southern Counties Gas Company of California be and it hereby is authorized to issue and sell to the Pacific Lighting Corporation for cash at not less than par on or before October 1, 1927, $1,500,000 par value of its common capital stock and use $750,000 of the proceeds obtained from the sale of such stock to reimburse its treasury on account of earnings expended for the acquisition and construction of properties. The remaining $750,000 obtained from the sale of said stock shall be deposited with a bank or trust company and expended for only such purposes as the Commission will hereafter authorize by supplemental order or orders.

It is hereby further ordered, that the authority herein granted will become effective upon the date hereof and that applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California this fourteenth day of March, 1927.

DECISION NO. 18065.

IN THE MATTER OF THE APPLICATION OF THE FRESNO TRACTION COMPANY FOR AN ADDITIONAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN THE EXERCISE OF ITS FRAN-

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CHISE GRANTED BY ORDINANCE No. 986, ADOPTED BY THE COMMISSION OF THE CITY OF FRESNO, ON THE TWENTY-FIRST DAY OF DECEMBER, 1922.

Application No. 13371.
Decided March 14, 1927.

CERTIFICATE—STREET RAILWAY UTILITY—FRANCHISE RIGHTS—TO EXERCISE.—Application granted.

Evorts, Ewing, Wild and Evorts, by D. S. Ewing, for Applicant.

LOUTTIT, *Commissioner*.

OPINION.

By the above entitled application, filed with this Commission on December 6, 1926, the Fresno Traction Company seeks a certificate of public convenience and necessity authorizing it to exercise the rights possessed by it under Franchise Ordinance No. 986 granted by the city of Fresno. Under this particular ordinance the application herein was authorized to construct and operate a single or double track street railway subject to the terms and conditions and for the period prescribed in Fresno City Ordinance No. 864, along and upon certain designated streets, to wit:

> Upon McKenzie avenue from the intersection with Fresno and McKenzie avenues, east along and upon said McKenzie avenue to the west property line of Ninth street and McKenzie avenue, or what is now the east line of the city limits of said city of Fresno; and upon Fresno avenue from the south property line of Fresno and Belmont avenues north to the south property line of Olive avenue, or to the edge of the city limits of said city of Fresno.

By Franchise Ordinance No. 964 the said Fresno Traction Company was authorized to construct and operate its system over certain designated streets under certain terms and conditions, and a certificate of public convenience and necessity was granted by this Commission on May 3, 1922 (Decision No. 10401, Application No. 7705), authorizing said company to exercise its right obtained thereunder. This present application, therefore, is made to enable the company to extend its lines and service over the above described streets, designated in Ordinance No. 986.

A public hearing in the matter was held before me in San Francisco on February 11, 1926, at which time testimony, oral and documentary, was introduced. It appears therefrom that public convenience and necessity warrant the granting of the desired certificate, and the order will so provide.

ORDER.

Fresno Traction Company having made application to this Commission for a certificate of public convenience and necessity authorizing it to exercise the rights and privileges granted to it by the city of Fresno under Ordinance No. 986, a public hearing having been held,

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and testimony having been taken, and the matter having been submitted and now being ready for decision;

It is hereby found as a fact, that public convenience and necessity require the exercise by Fresno Traction Company of the rights, privileges and franchise granted to it by Fresno City Ordinance No. 986; and

It is hereby ordered, that a certificate of public convenience and necessity is granted to the Fresno Traction Company to exercise the rights, privileges and franchise granted by said city of Fresno by Ordinance No. 986.

The effective date of this order shall be twenty days from date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of March, 1927.

DECISION No. 18066.

IN THE MATTER OF THE APPLICATION OF FEDERAL TELEGRAPH COMPANY (OF CALIFORNIA) FOR PERMISSION TO OPEN AN OFFICE IN OAKLAND, CALIFORNIA.

Application No. 13401.

Decided March 14, 1927.

CERTIFICATE—TELEGRAPH UTILITY—RADIO OFFICE.—Application granted.

Pillsbury, Madison and Sutro, by *M. D. L. Fuller*, for Applicant.
E. W. Hollingsworth, Oakland Chamber of Commerce, for Applicant.

BY THE COMMISSION.

OPINION.

Federal Telegraph Company, a corporation, in this proceeding requests permission of the Railroad Commission to open a telegraph office in the city of Oakland, Alameda County.

A public hearing in the matter was held by Examiner Gannon in Oakland on February 4, 1927, at which place and time the matter was submitted for decision.

A. Y. Tuel, general manager of applicant company, gave testimony relative to its operations and reasons for its desire to establish a telegraph office in Oakland. This office was, in fact, opened for business in the Federal Telegraph Building in Oakland on October 1, 1926. Receipts from the business have increased from approximately $400 for the first month to between $600 and $700 per month at the present time. The company operates offices in San Francisco, Los Angeles, and San Diego, California, at points in other western states, and by means of its radio stations furnishes communication with ships in the north

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Pacific Ocean. Applicant submitted several letters from civic organizations, private firms and companies of Oakland expressing favorable comment either on its entry into the city of Oakland as an operating company or on its service since the establishment of its Oakland office.

No objection was made to the opening by Federal Telegraph Company of a telegraph office in Oakland and no good reason appears for not granting applicant's request.

ORDER.

Federal Telegraph Company having made application to the Railroad Commission for permission to open a telegraph office in Oakland, Alameda County, California, a public hearing having been held, the matter having been submitted and being now ready for decision:

The Railroad Commission hereby declares that public convenience and necessity require that the Federal Telegraph Company open a telegraph office in the city of Oakland for the transaction of general telegraph business; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted to Federal Telegraph Company authorizing the establishment and operation of a telegraph office in the city of Oakland.

The authority herein granted is subject to the following conditions:

1. Federal Telegraph Company shall file with this Commission on or before March 15, 1927, a certified copy of any franchise which has been granted it for the operation of telegraph business in the city of Oakland, Alameda County, California, and likewise shall file, within fifteen days after its execution, a certified copy of any such franchise which may hereafter be granted it for such purpose.

2. Federal Telegraph Company shall file with this Commission on or before March 15, 1927, or within fifteen days after the date when any such amount is paid by it, a stipulation, in satisfactory form, with this Commission to the effect that it or its successors or assigns will never claim before the Railroad Commission, any court or other public body, a value for any franchise which it may now have or may hereafter obtain for the operation of an office in Oakland in excess of the amount which it has paid for the same.

3. Federal Telegraph Company shall submit to the Commission for filing on or before March 15, 1927, its schedules of rates and charges for telegraph service to and from its Oakland office in conformity with the provisions of General Order No. 68 of this Commission.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourteenth day of March, 1927.

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DECISION No. 18068.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY TO SELL AND COAST COUNTIES GAS AND ELECTRIC COMPANY TO PURCHASE CERTAIN POLE LINES AND FACILITIES BETWEEN, AND IN THE VICINITY OF, MORGAN HILL AND COYOTE, SANTA CLARA COUNTY.

Application No. 13497.

Decided March 14, 1927.

TRANSFER—ELECTRIC UTILITY—TRANSMISSION FACILITIES.—Application granted.

BY THE COMMISSION.

OPINION.

This is the joint application of the Pacific Gas and Electric Company and Coast Counties Gas and Electric Company asking the Railroad Commission to make its order authorizing Pacific Gas and Electric Company to sell and Coast Counties Gas and Electric Company to purchase certain transmission and distribution facilities in the neighborhood of Coyote, Santa Clara County, this property being more particularly described in the agreement, marked Exhibit "A," attached to and made a part of the application.

The proposed transfer not only involves the exchange of properties but accomplishes the withdrawal of Pacific Gas and Electric Company from a territory which is now supplied by both companies.

The consideration at which it is proposed to transfer the properties is $20,400. Upon investigation it appears that the proposed transfer price is somewhat in excess of the actual value of the properties. The engineering department of the Railroad Commission estimates the fair exchange value of the properties at $15,000.

The Pacific Gas and Electric Company has but one consumer in this area and this consumer will receive equally good service from the Coast Counties Gas and Electric Company.

Duplication of facilities, which inevitably result when two or more utilities are rendering similar service within the same area, is not desirable and is not in the public interest. The sale of the properties involved in this application will tend to avoid such duplication and such sale is, therefore, in the public interest. We believe that the transfer should be authorized subject to the provisions of the following order:

ORDER.

Pacific Gas and Electric Company and Coast Counties Gas and Electric Company having applied to the Railroad Commission for an order authorizing the former to sell and the latter to purchase for the sum of $20,400, certain electric facilities located in the county of Santa Clara, and more particularly described in the agreement filed in this proceeding as Exhibit "A," and the Railroad Commission being

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of the opinion that this is not a matter in which a public hearing is necessary and that this application should be granted as herein provided; therefore,

It is hereby ordered, that

1. Pacific Gas and Electric Company be and it is authorized to sell and Coast Counties Gas and Electric Company to purchase and clear of all liens and encumbrances those certain electric facilities in the county of Santa Clara and more particularly described in said Exhibit "A."

2. Coast Counties Gas and Electric Company may charge to fixed capital accounts not more than $15,000 of the purchase price of the properties, the remainder, if any, of the purchase price shall be charged to Account No. 508, Miscellaneous Debits to Profit and Loss.

3. The authority herein granted shall become effective on the date of this order but under such authority no properties may be transferred after June 1, 1927.

Dated at San Francisco, California, this fourteenth day of March, 1927.

DECISION No. 18080.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT CO., A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF EVIDENCE OF INDEBTEDNESS.

Application No. 13543.

Decided March 15, 1927.

SECURITIES—NOTES—TO ISSUE.—California Transit Company authorized to issue its promissory note in the principal amount of $127,000, payable on or before one year from date of issue, with interest at 6 per cent per anum.

Earl A. Bagby, for Applicant.

BY THE COMMISSION.

ORDER.

California Transit Co. has applied to the Railroad Commission for permission to issue a one-year 6 per cent note for $127,000, secured by deed of trust on certain real property in Oakland, for the purpose of refunding outstanding indebtedness.

The indebtedness to be refunded consists of a promissory note for $55,000, due Central Savings Bank of Oakland, secured by a mortgage on a portion of the real property on which applicant now proposes to execute a deed of trust, and to pay a part of its $100,000 note indebtedness in favor of Central National Bank of Oakland, as set forth in the petition. The company recites that the $55,000 note was assumed by it in connection with the acquisition of the real property and it alleges that the proceeds from the issue of the notes to Central National Bank

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of Oakland were used in constructing and equipping its stage depot and terminal in Oakland, the actual cost of which, exclusive of real property, is reported at $139,032.62.

It appears to us that this is a matter in which a public hearing is not necessary. It is our opinion that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the note is reasonably required by applicant for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income; therefore,

It is hereby ordered, that California Transit Co. be and it hereby is authorized to issue its promissory note in the principal amount of $127,000, payable on or before one year after date of issue with interest at not exceeding 6 per cent per annum, and to execute a deed of trust to secure the payment of the note, said deed of trust to be in substantially the same form as that filed in this proceeding; provided, that the authority herein granted to execute a deed of trust is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Auto Stage and Truck Transportation Act and the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

The authority herein granted is subject to the following conditions:

1. Applicant shall use the proceeds received through the issue of the note to pay the $55,000 note due Central Savings Bank of Oakland and to pay in part the notes due Central National Bank of Oakland referred to in this application.

2. The authority herein granted shall become effective when applicant has paid the fee prescribed by section 6 of the Auto Stage and Truck Transportation Act and section 57 of the Public Utilities Act, which fee is $127.

3. Applicant shall keep such record of the issue and delivery of the note herein authorized and of the disposition of the proceeds as will enable it to file within thirty days after such issue a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this fifteenth day of March, 1927.

DECISION No. 18081.

IN THE MATTER OF THE APPLICATION OF MODERN WAREHOUSES, INC., FOR AN ORDER AUTHORIZING THE APPLICANT TO EXECUTE ITS PROMISSORY NOTE FOR A PERIOD OF MORE THAN TWELVE MONTHS.

Application No. 13566.

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Decided March 15, 1927.

SECURITIES—NOTE—TO ISSUE.—Application granted.

BY THE COMMISSION.

ORDER.

Modern Warehouses, Inc., a corporation engaged in the business of unloading, servicing, handling, storing and delivering automobiles in the city of Los Angeles, asks permission to issue its unsecured promissory note in the principal amount of $10,000 payable on or before five years after date of execution with interest at the rate of 7 per cent per annum for the purpose of refunding outstanding indebtedness.

As of December 31, 1926, applicant reports outstanding $9,800 of short term notes, $1,654.33 of miscellaneous accounts payable and $1,446.24 of accrued liabilities not due. The notes payable, which it plans to pay with proceeds from the issue of the $10,000 note proposed to be issued, consist of the following:

Payee	*Date*	*Term*	*Interest*	*Amount*
H. E. Gallagher	Sept. 22, 1926	11 months	7%	$1,500
M. D. Ealy	Sept. 22, 1926	11 months	7%	1,800
Merchants National Bank	Sept. 15, 1926	90 days	6%	6,500
Total				$9,800

The note for $6,500, which was given in renewal of earlier indebtedness, was issued under authority granted by the Commission by Decision No. 17044, dated July 2, 1926. The issues of the other two notes were not authorized by this commission but applicant alleges, in this proceeding, that such notes were issued in payment of property.

We have given consideration to applicant's request and are of the opinion that this is a matter in which a public hearing is not necessary and that the company should be authorized to issue the $10,000 note for the purpose of paying the outstanding notes herein referred to and other indebtedness of the corporation; therefore,

It is hereby ordered, that Modern Warehouses, Inc., be and it hereby is authorized to issue its unsecured promissory note in the principal amount of $10,000 payable on or before five years after date of issue with interest at not exceeding 7 per cent per annum for the purpose of paying outstanding indebtedness as indicated herein.

It is hereby further ordered, that the authority herein granted shall become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25, and further, that applicant shall keep such record of the issue of the note herein authorized and of the disposition of the proceeds as will enable it to file, on or before thirty days after such issue, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this fifteenth day of March, 1927.

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DECISION No. 18082.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ONE HUNDRED SEVENTY THOUSAND SEVEN HUNDRED THIRTY-TWO SHARES OF ITS COMMON STOCK OF THE TOTAL PAR VALUE OF FOUR MILLION TWO HUNDRED SIXTY-EIGHT THOUSAND THREE HUNDRED DOLLARS.

Application No. 13602.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL FOUR HUNDRED THOUSAND SHARES OF ITS PREFERRED STOCK, SERIES B, SIX PER CENT.

Application No. 13603.

Decided March 19, 1927.

SECURITIES—STOCK—TO ISSUE.—Application granted.

Roy V. Reppy and Gail C. Larkin, for Applicants.

BY THE COMMISSION.

OPINION.

In the above entitled matters the Railroad Commission is asked to authorize Southern California Edison Company to issue and sell, at not less than par, $25 a share, 170,732 shares of its common stock of the aggregate par value of $4,268,300 and 400,000 shares of its Series "B" 6 per cent preferred stock of the aggregate par value of $10,000,000 for the purpose of financing the cost of extensions, additions and betterments to its system.

A public hearing was held on the applications before Examiner Fankhauser in San Francisco on March 16, 1927, at which time they were consodidated for the purpose of receiving evidence and for decision.

The record shows that applicant has an authorized capital stock of $250,000,000, divided into 10,000,000 shares of the par value of $25 each. The following tabulation shows the various classes into which its authorized stock is segregated and the amount of each outstanding on January 31, 1927:

Class of stock	*Authorized*	*Outstanding*
Original preferred	$4,000,000	$4,000,000
Preferred—Series "A" 7%	30,000,000	25,490,200
Preferred—Series "B" 6%	50,000,000	33,741,075
Preferred—Series "C" 5½%	20,000,000	
Preferred—Series "D" 5%	21,000,000	
Common	125,000,000	55,039,500
Totals	$250,000,000	$118,270,775

In addition the company reports, as of the same date, $3,762,275 of preferred, Series "A" and Series "B", and $3,241,300 of common subscribed but not yet issued, making a total issued or subscribed of $125,274,350. This amount, however, includes $10,836,628 of common stock

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held by Pacific Light and Power Corporation and controlled by applicant through stock ownership.

The company now reports the necessity of issuing additional stock to provide in part the cost of making extensions, additions and betterments during the year 1927. In this connection it reports, in its Exhibit "B," total expenditures for new construction up to January 31, 1927, against which no securities have been issued, of $2,102,203.49, and, in its Exhibit "G," estimated expenditures for the entire year 1927, of $42,881,000. These estimated expenditures include the following:

Big Creek construction	$12,400,000
Vincent transmission line and connections	2,676,000
New steam plant, Long Beach	4,280,000
220 k. v. transmission line—Laguna Bell substation to steam plant	1,175,000
Lighthipe substation	2,400,000
Additions to Laguna Bell substation	900,000
Rights of way	3,000,000
Civil engineering department, contingencies	50,000
Miscellaneous system betterments	16,000,000
Total	$42,881,000

The estimated expenditures are reported in greater detail in the company's 1927 budget (Exhibit "G"). The company reports amounts due on account of the unpaid balances on stock subscriptions of $4,265,097.11. Because of applicant having sold stock on the installment payment plan, not all of the $4,265,097.11 will be collected during 1927. It also reports that of the stock heretofore authorized to be issued by the Commission there is unsold on February 28, 1927, 49,650 shares of the Series "B" stock, of the aggregate par value of $1,241,250, 16,640 shares of the Series "A" stock of the aggregate par value of $416,000, and 59,124 shares of the common stock of the aggregate par value of $1,478,100. The moneys which the company will collect from stock subscribers, or which it may realize from the sale of stock heretofore authorized to be issued and sold, but not yet sold, will not be sufficient to finance its 1927 construction expenditures. The issue of additional stock seems necessary. It is of record that the company intends to offer, at par, the common stock which it asks permission to issue to the holders and subscribers, or their assigns, of its original preferred and common stock. It believes all or substantially all of the common stock will be purchased by those to whom the stock will be offered. It does not at this time request permission to sell the common stock to others than those mentioned.

The order herein will permit the issue of 170,732 shares of common stock and their offer to applicant's present stockholders, subscribers to stock or their assigns. We have made no determination, nor do we believe it to be within the jurisdiction of this Commission to make such a determination, as to whether applicant has the right to limit the

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offering of the common stock to those classes of stockholders mentioned herein.

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted as herein provided and that the money, property or labor to be procured or paid for through such issue of stock is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Southern California Edison Company be and it hereby is authorized to issue and sell, on or before December 31, 1927, at not less than $25 a share, 170,732 shares of its common stock, of the aggregate par value of $4,268,300 and 400,000 shares of its Series "B" 6 per cent preferred stock of the aggregate par value of $10,000,000, provided that such common stock be sold only to present stockholders, subscribers to stock or their assigns.

It is hereby further ordered, that Southern California Edison Company be and it hereby is authorized to use an amount of the proceeds from the sale of the stock herein authorized, not exceeding $1 per share of stock sold to pay commissions and expenses incident to the sale of the stock, and to consolidate the remaining proceeds, and such portion of the $1 not needed for commissions and expenses incident to the sale, with the proceeds received or to be received from the sale of stock heretofore authorized to be issued, and to use such consolidated proceeds to finance, in part, the cost of the extensions, betterments and additions referred to in Exhibits "E" and "G," filed in these matters.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof, and, further, that applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this nineteenth day of March, 1927.

DECISION No. 18084.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA WATER SERVICE COMPANY, A CORPORATION, FOR (1) ORDER AUTHORIZING ISSUE OF STOCKS AND BONDS; (2) ORDER AUTHORIZING MORTGAGE OF CERTAIN PUBLIC UTILITY PROPERTIES; AND (3) JOINTLY WITH C. B. JACKSON, CHICO WATER SUPPLY COMPANY, A CORPORATION, PORT COSTA WATER COMPANY, A

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CORPORATION, FRESNO CITY WATER CORPORATION, A CORPORATION, VISALIA CITY WATER COMPANY, A CORPORATION, ELECTRIC WATER COMPANY, A CORPORATION, BAKERSFIELD WATER WORKS, A CORPORATION, AND HERMOSA-REDONDO WATER COMPANY, A CORPORATION, RESPECTIVELY FOR AN ORDER AUTHORIZING PURCHASE AND SALE OF CERTAIN PUBLIC UTILITY PROPERTIES.

Application No. 13514.

Decided March 21, 1927.

TRANSFER—WATER UTILITY—STOCK—TO ISSUE.—California Water Service Company authorized to purchase from C. B. Jackson, Chico-Vecino Water Company, the properties and business of W. E. White Water Company, and a lot at Visalia used and usable in connection with the Visalia City Water Company; also to purchase the stocks of Chico Water Supply Company, Port Costa Water Company, Fresno City Water Corporation, Visalia City Water Company, Electric Water Company at Bakersfield, Bakersfield Water Works, and the common stock of Hermosa-Redondo Water Company, and to purchase and take over the properties and businesses of those companies.

OPTION—TO TRANSFER.—C. B. Jackson authorized to transfer to California Water Service Company option to purchase water plants of Pacific Gas and Electric Company located at Dixon, Stockton, Livermore, Willows, Oroville and Redding.

PURCHASE PRICE LIMITED.—Purchase price of properties which California Water Service Company is authorized to acquire shall not exceed $9,422,475.

COMMON STOCK—TO ISSUE AND SELL.—California Water Service Company authorized to issue and sell $2,000,000 of common stock, and such additional common and/or preferred stock and bonds as may hereafter be authorized, not to exceed $9,422,475.

McCutchen, Olney, Mannon and Greene, for Applicants.
Arthur H. Garland, Deputy Commissioner of Corporations.
E. F. Brittan, City Attorney for City of Bakersfield.
Loren A. Butts, City Attorney for City of Fresno and City of Visalia.
J. L. Johnson, City Attorney for City of Stockton.

BRUNDIGE, *Commissioner*.

OPINION.

The Railroad Commission is asked to make an order as follows:

1. Authorizing California Water Service Company to issue and sell at 90 per cent of their face value and accrued interest $6,600,000 of 5 per cent first mortgage twenty-five-year bonds (Series A); to issue and sell at 87 per cent of par value $2,150,000 of 6 per cent cumulative preferred stock; and to issue and sell at 75 per cent of par value $2,149,300 par value of common stock.

2. Authorizing California Water Service Company to use the proceeds ($9,422,475) obtained from the sale of the stocks and bonds for the purposes hereinafter set forth.

3. Authorizing applicant, C. B. Jackson, to sell and convey and California Water Service Company to purchase the properties and business comprising the Chico-Vecino Water Company (unincorporated); the properties and business comprising the W. E. White Water Company (unincorporated); and a lot at Visalia used and usable in connection with the Visalia City Water Company system.

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4. Authorizing California Water Service Company to purchase, hold and own the stocks of Chico Water Supply Company, Port Costa Water Company, Fresno City Water Corporation, Visalia City Water Company, Electric Water Company, Bakersfield Water Works and the common stock of Hermosa-Redondo Water Company.

5. Authorizing the Chico Water Supply Company, Port Costa Water Company, Fresno City Water Corporation, Visalia City Water Company, Electric Water Company, Bakersfield Water Works and Hermosa-Redondo Water Company to sell and convey and California Water Service Company to purchase and take over, at a price to be agreed on between said California Water Service Company and said corporations, all the properties and businesses of said corporations and each of them.

6. Authorizing C. B. Jackson to sell, assign, transfer and set over to the California Water Service Company all his right, title and interest in and to the contract between C. B. Jackson and Pacific Gas and Electric Company dated December 7, 1926, and any amendments and modifications thereof, so that said California Water Service Company may be substituted in the place and stead of C. B. Jackson with respect to said contract; also, authorizing said Pacific Gas and Electric Company to convey, transfer and set over direct to applicant, California Water Service Company, all the properties, businesses, rights and privileges included in said contract.

7. Authorizing California Water Service Company to make, execute and deliver a first mortgage on the public utility properties to be acquired by it as aforesaid, a copy of which mortgage has heretofore been filed with the Commission as applicant's Exhibit 4.

8. Authorizing applicant, C. B. Jackson (as the owner of the unincorporated water systems known as Chico-Vecino Water Company and W. E. White Water Company) and applicants, Chico Water Supply Company, Port Costa Water Company, Fresno City Water Corporation, Visalia City Water Company, Electric Water Company, Bakersfield Water Works and Hermosa-Redondo Water Company to abandon and discontinue their respective public utility obligations and service and to cease furnishing and supplying water service if, as and when the transfer of their respective properties to the California Water Service Company shall become effective.

In general, it may be said, that this application involves the transfer of the properties to the Fresno City Water Corporation, Electric Water Company, Visalia City Water Company, Hermosa-Redondo Water Company, Port Costa Water Company, Chico Water Supply Company, Bakersfield Water Works, the water systems of the Pacific Gas and Electric Company located at Dixon, Stockton, Livermore, Willows, Oroville and Redding and the water properties owned and oper-

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ated by C. B. Jackson under the name of the Chico-Vecino Water Company and W. E. White Water Company, to the California Water Service Company. It appears that it is the intention of the California Water Service Company to buy the capital stock of the different corporations, to which reference has been made (other than the Pacific Gas and Electric Company), and thereafter cause each of such corporations to transfer their properties and businesses as a whole, subject to liabilities, to the California Water Service Company. While applicants do not state the price at which the properties will be transferred, it is of record that such price, including the liabilities assumed, will not exceed $9,422,475.

It appears further that it is the intention of the California Water Service Company to redeem all of the bonds ($2,249,000) of the subsidiary companies. The cost of redeeming the bonds is reported at $2,670,988.75. The bonds to be redeemed are as follows:

Name of corporation	*Amount of bonds outstanding*	*Rate*	*Call price*	*Next redemption date*	*Amount required to redeem on next redemption date with interest*
Chico Water Supply Co.	$43,000	5 %	Par	May 2, 1927	$44,075 00
Port Costa Water Co.	550,000	6½%	105	July 1, 1927	595,375 00
Fresno City Water Corp. First mortgage	157,500	5 %	105	July 1, 1927	169,312 50
Fresno City Water Corp. First and refunding—Series A	400,000	6½%	105	Nov. 1, 1936	680,000 00
Fresno City Water Corp. First and refunding—Series B	150,000	5½%	105	May 1, 1927	161,625 00
Fresno City Water Corp. First and refunding—Series C	400,000	6 %	105	Aug. 1, 1927	432,000 00
Visalia City Water Co.	68,000 †	6 %	102	July 1, 1927	71,320 00
Bakersfield Water Works	88,000 §	6 %	102	Sept. 1, 1927	92,400 00
Hermosa-Redondo Water Co.	392,500	6½%	105	June 1, 1927	424,881 25
	$2,249,000				$2,670,988 75

† Of these $68,000 of bonds $4,000 mature by their terms July 1, 1927.
§ In addition to these $88,000 of bonds, $6,000 mature by their terms March 1, 1927.

Applicants report that it will cost the California Water Service Company $9,422,475 to acquire the properties to which reference has been made. The $9,422,475 is segregated as follows:

To purchase stocks, properties, privileges and rights $3,630,503 80

(This covers purchase of the common capital stock of Chico Water Supply Company, Port Costa Water Company, Fresno City Water Corporation, Visalia City Water Company, Electric Water Company, Bakersfield Water Works and Hermosa-Redondo Water Company; also, the properties now owned by C. B. Jackson and operated under the name of Chico-Vecino Water Company and the W. E. White Water Company; also, a lot at Visalia used and usable in connection with the Visalia City Water Company's system; also, all the rights and privileges of C. B. Jackson in and to that certain contract dated December 7, 1926, between said C. B. Jackson and Pacific Gas and Electric Company for the purchase of the water systems owned by the latter in the cities and towns of Stockton, Oroville, Redding, Willows, Dixon and Livermore.)

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The estimated expenses of acquiring and consolidating all of the properties, including legal, engineering, accounting, title and other expenses	285,675 00
The estimated cost of redeeming $2,249,000 of bonds of subsidiary companies	2,670,988 75
To pay balance due on contract for the purchase of the certain water systems owned by Pacific Gas and Electric Company	2,355,000 00
To pay the cost of redeeming $85,000 par value of preferred stock of Hermosa-Redondo Water Company	86,487 50
To pay the current liabilities of the different water systems not covered by current assets	91,932 54
To expend for supplies, working capital and to cover the additional cost to be paid to the Pacific Gas and Electric Company for additions and betterments since July 31, 1926	301,887 41
Total	$9,422,475 00

It will be noted that the $9,422,475 includes $423,476.25 which, it is said, must be expended to redeem outstanding bonds and preferred stock of companies whose properties California Water Service Company intends to acquire. I believe that the $423,476.25 is a part of the cost of financing the consolidated properties. While I call attention to this one item, it should not be inferred from such reference that I at this time approve the other items of reported expenditures or find the same to be reasonable.

Representatives of the Commission are now engaged in examining the valuations of the properties and financial statements submitted by applicants. C. T. Chenery, president of California Water Service Company, and counsel for applicants urge that the reported valuations are so much in excess of the $9,422,475 that a detailed examination of the valuations is unnecessary. They urge further that it is imperative that the company proceed immediately with the sale of its securities to finance the acquisition of the properties. While it may be desirable that the securities should be sold forthwith, I am not now willing to accept for the purpose of the capitalization of the properties either the valuations submitted by applicants or the reported cost ($9,422,475) of the properties. In my opinion, the Commission can not accept either until its representatives have concluded their examination of the valuations and financial statements submitted by applicants.

I am willing, however, to recommend to the Commission that it enter a preliminary order in this matter authorizing the transfer of the properties and the issue of not exceeding $2,000,000 of common stock. A final order, authorizing the issue of additional stock (common and/or preferred), bonds and the execution of a mortgage, will be entered by the Commission after its representatives have concluded their examination of the valuations and financial statements.

No protest was entered against the transfer of any of the properties referred to in this application, though the city of Fresno sought to protect its interest in the event it initiate a condemnation proceeding to acquire the properties now owned by Fresno City Water Corporation.

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In so far as the city of Fresno is concerned, the company stipulated as follows:

> The applicant, California Water Service Company, is willing to agree that if the Commission makes an order sought by it in the pending application, it will not claim as against the City of Fresno in any future condemnation proceeding brought within a year from date by said city, that the valuation of the Fresno properties recently acquired in the name of Mr. Jackson has been increased by the making of such order; and it further agrees that if said condemnation proceedings are brought within the period of one year from date it will not claim in such proceeding it has been or will be damaged upon the ground that all the property now owned by the Fresno City Water Corporation will be severed from the other nonadjacent properties which the California Water Service Company seeks to acquire.
>
> The representatives of Fresno wanted a stipulation of that sort, and we are willing to give it.

I herewith submit the following form of order:

ORDER.

The Railroad Commission having been asked to enter its order as indicated in the foregoing opinion, a public hearing having been held and the Railroad Commission being of the opinion that it should at this time grant this application only to the extent affirmatively indicated in this order; that it should authorize the issue of not exceeding $2,000,000 par value of its common capital stock; that the money, property or labor to be procured or paid for by such issue of stock is reasonably required by applicant, California Water Service Company, and that the purposes for which the company is authorized to expend the proceeds from the sale of said stock are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, as follows:

1. Applicant, C. B. Jackson, is hereby authorized to sell and convey to the California Water Service Company and said California Water Service Company is hereby authorized to purchase the properties and business comprising the Chico-Vecino Water Company (unincorporated); the properties and business comprising the W. E. White Water Company (unincorporated), and a lot in the city of Visalia used and usable in connection with the Visalia Water Company system.

2. Applicant, C. B. Jackson, is hereby authorized to sell, assign, transfer and set over to California Water Service Company all his right, title and interest in and to the contract between said C. B. Jackson and Pacific Gas and Electric Company, dated December 7, 1926, and any amendments and modifications thereof so that said California Water Service Company may be substituted in the place and stead of C. B. Jackson with respect to said contract.

3. Applicant, Pacific Gas and Electric Company, is hereby authorized to convey, transfer and set over direct to applicant, California Water Service Company, all the properties, businesses, rights and

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privileges included in said contract dated December 7, 1926, and any amendments or modifications thereof.

4. Applicant, California Water Service Company is hereby authorized to purchase, hold and own the common stock of Chico Water Supply Company, Port Costa Water Company, Fresno City Water Corporation, Visalia City Water Company, Electric Water Company, Bakersfield Water Works and Hermosa-Redondo Water Company.

5. Applicants, Chico Water Supply Company, Port Costa Water Company, Fresno City Water Corporation, Visalia City Water Company, Electric Water Company, Bakersfield Water Works, Hermosa-Redondo Water Company, are hereby authorized to sell and convey to Calfornia Water Service Company, and said California Water Service Company to purchase and take over the properties and businesses of said corporations and each of them.

6. The purchase price of the properties which the California Water Service Company is hereby authorized to acquire shall not exceed $9,422,475.

7. Applicant, California Water Service Company, is hereby authorized to issue $2,000,000 par value of common stock and sell said $2,000,000 of common stock together with such additional stock (common and/or preferred) and bonds which the Commission may hereafter authorize to be issued for not more than $9,422,475 and use said $9,422,475, or lesser amount, for the purposes set forth in the foregoing opinion, provided that the Commission is under no obligation to authorize the issue of securities equal in par value to the $9,422,475, or lesser amount, and, provided further, that only such part of the $9,422,475, or lesser amount, as may hereafter be determined by the Commission, shall be charged to fixed capital account.

8. Applicant, C. B. Jackson, as the owner of the unincorporated water systems known as Chico-Vecino Water Company, W. E. White Water Company, and applicants, Chico Water Supply Company, Port Costa Water Company and Fresno City Water Corporation, Visalia City Water Company, Electric Water Company, Bakersfield Water Works and Hermosa-Redondo Water Company, are hereby authorized to abandon and discontinue their respective public utility operations and service and to cease furnishing and supplying water service if, as and when the transfer of their respective properties to the California Water Service Company shall become effective.

9. Under the authority herein granted no properties may be transferred and no stock issued after December 31, 1927.

10. Applicant, California Water Service Company, shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the

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Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of March, 1927.

DECISION No. 18103.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER ITS PREFERRED AND COMMON CAPITAL STOCK TO THE AMOUNT, IN THE MANNER AND FOR THE PURPOSES SET FORTH HEREIN.

Application No. 13350.

Decided March 24, 1927.

SECURITIES—STOCK—TO SELL.—Pacific Gas and Electric Company authorized to issue and sell $250,000 of 6 per cent cumulative preferred stock and $250,000 of common stock, in addition to amounts heretofore authorized to meet oversubscriptions for said stock.

BY THE COMMISSION.

SECOND SUPPLEMENTAL OPINION AND ORDER.

Pacific Gas and Electric Company, by Decision No. 17801, dated December 23, 1926, as amended, was authorized to issue and sell, at not less than par, $1,000,000 of its common stock and $1,000,000 of its preferred stock.

In a supplemental petition filed on March 17, 1927, the company reports that it offered the $2,000,000 of stock to its employees and received subscriptions for stock in an aggregate amount of $2,506,300, the over subscription including $253,150 of common and $253,150 of preferred stock. In order to fill these subscriptions, in part, the company asks permission to issue, in addition to the stock authorized by Decision No. 17801, $250,000 of common stock and $250,000 of preferred stock, upon the same terms and conditions heretofore outlined to the Commission in this proceeding, and to use the proceeds for the purposes indicated in said Decision No. 17801, that is, for the purpose of reimbursing its treasury and of financing the cost of the additions and betterments heretofore reported to the Commission, in Exhibits "B," "C," "D" and "E" filed in Application No. 13291. In those exhibits the actual or estimated expenditures were reported at $22,987,541.02. Against such expenditures the Commission has authorized the issue of stock or the withdrawal of cash in the sum of $15,849,381.73. Applicant now asks permission to issue additional stock in the sum of

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$500,000 against said expenditures. In our opinion the money, property or labor to be procured or paid for through such issue is reasonably required for the purposes specified herein and the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income; therefore,

It is hereby ordered, that Pacific Gas and Electric Company be and it hereby is authorized to issue, sell and deliver on or before December 31, 1930, at not less than the par value thereof $250,000 of its 6 per cent cumulative preferred stock and $250,000 of its common stock, in addition to the amounts heretofore authorized to be issued, sold and delivered in this proceeding, and to use the proceeds to reimburse its treasury in part on account of capital expenditures of $6,631,162.88 made prior to August 31, 1926, and/or to finance in part such cost of the extensions, additions, betterments and improvements to its facilities and to those of Mount Shasta Power Corporation described in Exhibits "B," "C," "D" and "E" filed in Application No. 13291, as is properly chargeable to fixed capital accounts under the uniform systems of accounts prescribed or adopted by this Commission.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof.

It is hereby further ordered, that applicant shall keep such record of the issue, sale and delivery of the stock herein authorized, and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-fourth day of March, 1927.

DECISION No. 18107.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT CO., A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO (a) CONSOLIDATE ITS OPERATIVE RIGHTS AND ESTABLISH CERTAIN THROUGH SERVICE OVER SEPARATE OPERATIVE RIGHTS (b) EXTEND ITS OPERATIVE RIGHTS FROM OAKLAND TO SAN FRANCISCO AND (c) TO CORRECT CERTAIN FARES AND ESTABLISH NEW RATES, RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF PERSONS, BAGGAGE AND EXPRESS.

Application No. 11005.

Decided March 28, 1927.

CERTIFICATE—AUTO STAGES—EXPRESS—CONSOLIDATED OPERATION.—California Transit Company authorized to consolidate its various operations, and to increase weight limit on express and baggage to 100 pounds per package, same to be carried in passenger vehicles only. Through service to Sacramento authorized. Service between San Francisco and Oakland via ferry, authorized

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in connection with present operation only. A rate of 25 cents per passenger fixed for such operation. Certain additions to its certificates made to permit of operation to points on its lines not previously authorized. Express service from Oakland to Martinez, to Napa, to Vallejo, and Vallejo to Sacramento, not authorized.

Earl A. Bagby for Applicant.
A. L. Hammell and *Edward Stern* for American Railway Express Co.
H. W. Hobbs for Southern Pacific Company.
Platt Kent and *J. F. Moses* for The Atchison, Topeka and Santa Fe Railway Company, Protestant.
F. E. Murphy for certain interested persons, on behalf of Applicant.
C. A. Beck for San Francisco-Sierra Motor Coach and Napa Valley Transit Company.
Chas. R. Detrick for Western Pacific Railroad Company and Sacramento Northern Railroad.
John T. York and *C. E. Brown* for San Francisco, Napa and Calistoga Railway.
C. N. Hatch and *A. T. Hatch* for Monticello Steamship Co.
Gilbert F. Jones for Central California Traction Company, Protestant.
H. A. Butchart for Sierra Railway Co., Protestant.
Jesse A. Steinhart and *P. J. Fiegenbaum* for San Francisco-Sacramento Railroad.

BY THE COMMISSION.

OPINION.

By its application, as amended, California Transit Company, a corporation, seeks to consolidate its various lines, establish through service over certain routes, extend its operative rights, except as to certain points, from Oakland to San Francisco, correct certain fares and establish new rates, fares, rules and regulations governing the transportation of passengers, baggage and express.

Public hearings on this application were held before Examiner Austin at San Francisco, Vacaville, Stockton and Sacramento when evidence was offered, the matter was orally argued and submitted upon briefs which have since been filed, and it is now ready for decision.

Applicant alleges that it conducts an automobile stage service for the transportation of passengers, baggage and express between Oakland and Vallejo, Vallejo and Sacramento, Oakland and Stockton via Tracy, Stockton and Sacramento, Stockton and San Jose via Livermore, Stockton and Merced via Manteca, San Francisco and Merced via Tracy, Oakland and Napa, Oakland and Martinez and the additional operative rights relating to or connecting with those above mentioned. It alleges that certain operative rights have been granted since the filing of the application as to which a consolidation is also sought, viz, the lines of Joseph Miller and of Valley Transit Company which were transferred to applicant, and also certain alternative or new routes heretofore authorized. Applicant also requests the consolidation of the operative rights sought by certain pending applications, if granted prior to the termination of this proceeding, including the transfer of the Yosemite Transit lines between Stockton, Sonora and Tuolumne and between Stockton, Groveland and Carl Inn (Application No. 12524); the proposed extension of the Yosemite Transit lines particularly between Escalon and Manteca and between

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Stockton and San Francisco via Antioch and Martinez (Application No. 10913); the application of Star Auto Stage Association for operative rights between Oakland and Stockton via Martinez and between Byron Junction and Tracy (Application No. 6114); and the application of Western Motor Transport Company for operative rights between Martinez and Stockton via Brentwood and between Brentwood and Tracy (Application No. 5928).

Applicant also seeks to establish through service between certain points. It specifies through routes between Oakland and Sacramento via Vallejo; between Tuolumne, Sonora and Sacramento via Stockton; and between San Francisco and Carl Inn via Stockton or Manteca and Escalon during the season of Carl Inn operation. In addition it requests authority to extend all of its operative rights involved in this proceeding (other than between Oakland and Napa, Martinez, Vallejo and Sacramento, respectively, and intermediate points) from Oakland as a terminal to San Francisco, not as a separate operative right but unified and consolidated with its system; and also to establish fares, rates, rules and regulations governing the transportation of passengers, baggage and express to and from San Francisco. A uniform schedule of rates, rules and regulations for the transportation of express is proposed, which is designed to eliminate the existing inequalities in the rate structure and excessive rates and minimums due to the operation of applicant's lines as separate units rather than as a single system; and a revision of the passenger and baggage rules and regulations as proposed. The application refers to certain proposed rates, fares and time schedules which, however, may be changed as occasion demands during the pendency of the proceeding.

The granting of the application was protested by Southern Pacific Company, Western Pacific Railway Company, Sacramento Northern Railway Company, San Francisco-Sacramento Railroad Company, San Francisco, Napa and Calistoga Railway, Monticello Steamship Company, The Atchison, Topeka and Santa Fe Railway Company, Central California Traction Company, Sierra Railway Company, American Railway Express Company, San Francisco-Sierra Motor Coach Lines and Napa Valley Transit Company.

There was but little opposition to the consolidation considered as a whole, the protestants limiting their attack to certain localized operations. We shall discuss the evidence relating to the issues thus framed, which may be briefly stated as follows:

(1) The general consolidation.

(2) The establishment of through service between Oakland and Sacramento via Vallejo.

(3) The extension of certain operative rights from Oakland to San Francisco as a terminal.

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(4) The unification of the Yosemite Transit Lines.

(5) The unification of express service.

Before discussing the general consolidation, we shall consider the specific issues which have been raised.

Establishment of Through Service Between Oakland and Sacramento via Vallejo.

As a part of the consolidation of its operative rights, applicant seeks to establish a through service between Oakland and Sacramento via Vallejo. Since this portion of the application was quite seriously contested, it will be dealt with separately rather than in connection with the general consolidation.

At present applicant conducts no through service between Oakland and Sacramento, but operates a disconnected service between Oakland and Vallejo, and Vallejo and Sacramento, transferring through passengers from one bus to another at Vallejo. Through tickets are not sold, passengers being sold two tickets good for transportation over each portion of this route.

This matter has previously been considered by the Commission. In Application No. 7693, California Transit Company applied for a similar through service alleging that it had formerly conducted such a service under the impression that because it was the owner of two connecting operative rights it was authorized to merge the same, but had ceased such operations following the Commission's decision in the Western Motor Transport case (Decision No. 9892, dated December 20, 1921, 20 C. R. C. 1038). By Decision No. 10813, dated August 1, 1922, (22 C. R. C. 122) the Commission held that applicant therein had not established public convenience and necessity for the through service, consequently the application was denied.

Again, in Decision No. 15123, Case No. 2107, decided July 3, 1925, (26 C. R. C. 733), the Commission held, upon a complaint brought by San Francisco-Sacramento Railroad Co. against California Transit Company, that the latter had been illegally conducting a through service between Oakland and Sacramento, and defendant was ordered to cease such operations and thereafter to operate separate busses or vehicles between Oakland and Vallejo and between Vallejo and Sacramento. Subsequent to that decision applicant, in compliance therewith, has been operating a disconnected service, transferring passengers and baggage from one bus to another at Vallejo. It now seeks a certificate authorizing the establishment of a through service, asserting that since the rendition of Decision No. 10813 there has been such a substantial change in conditions as to warrant the merging of these operative rights. Testimony as to the advantages of such a through service and the inconvenience attendant upon the present service, was offered by officials and employees of the applicant and by other wit-

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nesses, called at the hearings held in San Francisco, Sacramento and Vacaville. W. E. Travis, President of the California Transit Company, testified that such a service would eliminate the inconvenience now caused by the purchase of two tickets and the transfer of passengers and baggage at Vallejo. In addition, he stated, it would result in greater efficiency of operation, in that more mileage could be obtained from the equipment, thus reducing operating expenses. The witness described the proposed loop service which had formerly been operated, and which he proposed to restore, between Oakland, Vallejo, Sacramento, Stockton and back to Oakland. At present, because of the disconnected service, it is necessary to maintain a force of mechanics and inspectors at Vallejo to repair and inspect stages, a service which can be performed more efficiently at applicant's shops in Oakland.

Applicant called certain of its agents, drivers and employees who described in detail the complaints of passengers arising from the transfer from bus to bus at Vallejo and to the purchase of two tickets. They stated that frequently passengers lost their tickets, quite often were unable to identify their baggage, all of which resulted in considerable confusion, and frequently complained of seating rearrangements in connecting stages. In order to comply fully with Decision No. 15123, applicant has required passengers to reclaim and recheck their baggage at Vallejo, a circumstance which occasions confusion, delay and numerous complaints. It was stated that the inconvenience attendant upon the transfer worked a peculiar hardship to women and children traveling unescorted. The transfer at Vallejo, it appears, has resulted in greater inconvenience and in more numerous complaints than the transfer at Stockton, which is a terminal point, or than the transfer at Sacramento Junction, passengers changing there being much fewer in number than at Vallejo. They also testified that numerous inquiries have been received at various points upon this route relative to the establishment of through service.

Travel studies were presented showing the passengers carried over this route, and in particular the relationship between the passengers now transported and those handled before the disconnected service was inaugurated pursuant to Decision No. 15123. Applicant's Exhibit 11 shows the passengers carried during August and September of 1924 and between Vallejo and Oakland, on the one hand, and Vallejo and Sacramento, on the other hand. The following tabulation is based upon this exhibit:

To Sacramento	*From Oakland*	*To Sacramento and Points East of Vallejo From Points West of Vallejo (except Oakland)*	*Total*
Aug. 1924	384½	461½	846
Aug. 1925	396	383	779
Sept. 1924	407	322	729
Sept. 1925	416	333	749

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To Oakland	From Sacramento	To Oakland and points west of Vallejo from points east of Vallejo (except Sacramento)	Total
Aug. 1924	470	292	762
Aug. 1925	495	465	960
Sept. 1924	439	306	745
Sept. 1925	477	342	819

From the testimony of the former agent at Vallejo, it appears that about seven or eight passengers per stage, on week days, and twice as many on Saturdays and Sundays, travel beyond Vallejo. All of them carried at least two pieces of baggage, which was rechecked at Vallejo.

Applicant's Exhibit 18 shows the passengers traveling to and from Vallejo in each direction during August, September and October of 1924 and 1925. The following tabulation is based upon this exhibit:

	West bound between Vallejo and Oakland	West bound between Vallejo and other points west	East bound between Vallejo and Sacramento	East bound between Vallejo and other points east
Aug. 1924	2,134	768	336	374
Aug. 1925	2,363	746	245	372
Sept. 1924	1,932	643	225	364
Sept. 1925	1,825	679	274	349
Oct. 1924	1,801	546	216	426
Oct. 1925	2,189	690	280	365

For the purpose of showing the need for this service, applicant called 33 witnesses, residents of San Francisco, Oakland, Berkeley, Richmond, Albany, Suisun, Vacaville and Sacramento, and in addition, the testimony of about 50 more witnesses was included in the record by stipulation of counsel, most of these being residents of Dixon, Cordelia and Vacaville. In substance, these witnesses testified that they traveled more or less frequently over applicant's stage line between Sacramento and Oakland, finding the transfer between stages at Vallejo inconvenient, and some testified to the loss of tickets and baggage, due to this transfer. We refer particularly to the testimony of George J. Bradley, manager and secretary of the Merchants and Manufacturers Association of Sacramento, who testified that although he personally did not use the stages, preferring rather to ride upon the trains, nevertheless, in his judgment those passengers who did elect to ride upon stages were entitled to be transported with as little inconvenience as possible. He stated he could see no reason for the transfer at Vallejo, it being his opinon that since the service was in existence and passengers preferred that route to others, they should not be subjected to the inconvenience of changing stages and rechecking their baggage. In his judgment the present rail transportation service between Oakland and Sacramento was adequate and more than sufficient to serve the public needs, and should it be shown that the through stage service impaired the ability of

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the railroads to continue their present excellent service, he favored the total withdrawal of stage service between those points, believing that the prosperity of this territory was dependent more upon the integrity of rail than of stage service. However, he stated, so long as passengers chose to travel on stages, he could see no reason for compelling them needlessly to change en route.

Applicant called H. A. Mitchell, vice president and general manager of protestant San Francisco-Sacramento Railroad Company, to determine to what extent that company had increased or lost any patronage, as a result of the disconnected service initiated pursuant to Decision No. 15123. Mr. Mitchell testified that his company was not concerned with any extension of service in the San Joaquin Valley, except in so far as it might affect its service between Sacramento, Oakland and San Francisco, nor was it interested in any points on applicant's route intermediate to Sacramento and Oakland. He further testified that the travel over his line between San Francisco and Sacramento had not increased during September, 1925, over that handled during September, 1924, and that it had decreased during August and October, 1925, below that handled during a similar period in 1924. He was unable to state the effect of the dissolution of applicant's through service upon the railroad's operations, no study having been made as to this.

Counsel for protestant, Southern Pacific Company, stated that no examination had been made to determine the effect of the consolidation or the dissolution of through service via Vallejo upon that protestant's operations.

At the conclusion of applicant's showing with respect to this feature of the case, counsel for the Southern Pacific Company moved to dismiss this part of the application upon the ground that since the filing of the application herein the Commission by its Decision No. 15122, *supra*, had ruled adversely on the question of public convenience and necessity for this through service. Counsel for applicant, reciting the motion, pointed out that such proceeding was a complaint against applicant's operations and did not involve the determination of public convenience and necessity for a through service. The motion was reserved for our determination, no ruling having been made at the trial. We agree with counsel for applicant that Decision No. 15123 did not deal in any respect with the question of public convenience and necessity for a through service, consequently the motion will be denied.

The principal protests against the granting of this portion of the application were presented by the San Francisco-Sacramento Railroad Company and the Southern Pacific Company.

The protestant, San Francisco-Sacramento Railroad Company, referred to our previous decisions Nos. 10813 and 15123, *supra*, contending that since the rendition of Decision No. 10813 there had been

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no such change in the surrounding circumstances and conditions as to warrant the granting of a certificate at this time.

H. A. Mitchell, protestant's vice president and general manager, described in detail the service of this carrier. He submitted an exhibit (S. F.-Sac. R. R. Exhibit 1), showing a composite time table of Oakland-Sacramento train service via the Southern Pacific Benicia route and the San Francisco-Sacramento Railroad from which it appears that there are 17 trains eastbound and 18 trains westbound daily between these points, the schedules being frequent and quite well distributed throughout the day. He compared the 35 rail schedules with the 13 stage schedules proposed by applicant and pointed out that in May, 1922, when Decision No. 10813 was rendered, the railroads then had but 34 trips per day and the stage then proposed 16 trips per day. In addition to a Pullman sleeper, service was available by rail over the Southern Pacific lines. He also submitted an exhibit (S. F.-Sacramento R. R. Exhibit 2), showing the relative operating time of the railroads and the stage, from which it appears that the average rail schedule is 2 hours 54 minutes, and the average stage schedule 4 hours 43 minutes. In this connection the witness stated that since Decision No. 10813 was rendered the railroads have shortened their schedule between Sacramento and Oakland, while the stage time has been lengthened. This protestant's Exhibit 3 is a comparison of average fares over both routes. The one-way stage fares are slightly lower than those of the railroad, but the latter has more attractive commutation and excursion fares. This carrier's equipment consists of electric motor coaches, dining and observation cars, the equipment having been improved since the present decision. In fact, since 1922, the general standard of service has been maintained and improved. In the opinion of this witness, the rail service is sufficient and adequate to serve the public needs, and no additional service is necessary, because it is more expeditious than the stage service, persons missing the earlier stage schedules being able to take later trains and arrive at their destinations earlier than had they originally caught the stage. A new depot has been opened in Sacramento which is readily accessible to street car lines, and protestants' facilities in Oakland are conveniently located. Nevertheless, the witness stated, the railroad had steadily lost traffic since 1920-1921, and its passenger traffic is now decreasing. When asked by his own counsel to what circumstance he attributed this decline, the witness stated that in his personal judgment it was due principally to privately owned automobiles, a similar decline in traffic having occurred where the railroad met with no competition other than that of privately owned cars. He reiterated this opinion on cross-examination. Mr. Mitchell testified that late in 1925 and early in 1926 he visited Vallejo, where he observed upon several occasions the transfer of passengers between applicant's

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stages. He said there was no confusion nor delay, passengers being interchanged usually within a period of three minutes. According to his observation, an average of four passengers per stage were transferred, the stages were parked close together, and passengers had no difficulty in obtaining seats. He believed the establishment of a through service would tend to attract traffic from the railroad, his opinion being based to a certain extent upon testimony given by applicant's witnesses.

Protestant Southern Pacific Company introduced a statement (Southern Pacific Exhibit 3) comparing its fares with those of applicant from which it appears that in general the one-way fares of applicant are slightly lower than those of the protestant, but the latter offers lower excursion and round-trip fares. This protestant's Exhibit 7 compares the railroad schedules between Oakland and Sacramento with those of applicant, it appearing that Southern Pacific Company operates eastbound 10 schedules daily and westbound 10 schedules daily, with an average running time eastbound of 2 hours, 57 minutes, and westbound 2 hours, 55 minutes; while applicant proposes to operate seven schedules eastbound with an average running time of 4 hours, 40 minutes, and six schedules westbound with an average running time of 4 hours, 45 minutes. Testimony descriptive of the trains was offered, showing that modern standard equipment is used. Another exhibit (S. P. Exhibit 8), was offered showing the service between Oakland Pier and Sacramento during the months of August and September, 1922, 1924 and 1925, from which it appears that the average running time has become shorter during that period (indicating faster service) and that the schedules had not been curtailed. One of protestant's representatives testified no complaints had been received as to the service, and protestant called seven witnesses, residents, business men and public officials of Davis, Dixon and Vacaville and by stipulation included two witnesses from Suisun. These witnesses testified they had used the Southern Pacific rail service to Oakland and San Francisco, finding it satisfactory and convenient. One witness testified he had used applicant's stage line, finding the transfer at Vallejo inconvenient, but others stated they had suffered no inconvenience attendant upon such transfer.

In rebuttal applicant introduced two statements (Applicant's Exhibits 30 and 31), purporting to show extra sections operated on various schedules in and out of Vallejo during the months of November and December, 1925, which it was stated tended to increase the confusion incident to the transfer of passengers at Vallejo. Mr. Everman stated that to the best of his knowledge no deadhead stages were included in these exhibits. He also testified that stages fully loaded

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with through passengers could be diverted so as not to operate through the station at Vallejo, thereby resulting in the more economical use of equipment, something which could not now be done under the present disconnected service. Applicant's Exhibit 32 shows ticket sales at Oakland for Sacramento and at Sacramento for Oakland during November and December, 1925. Four hundred thirty-three one-way and 58 round-trip tickets were sold at Oakland for Sacramento, and 633 one-way and 32 round-trip tickets were sold at Sacramento for Oakland. This witness stated that this exhibit covered through passengers only, and when read in connection with Applicant's Exhibit 11 it indicated that of the passengers handled over the entire route between Oakland and Sacramento 40 per cent are through passengers and 60 per cent are local passengers. Another exhibit (Applicant's Exhibit 33) shows that during September, 1925, the tickets sold at all of applicant's stations aggregated 82,936, a number which fairly represents the total passengers handled during that month.

The evidence shows that notwithstanding the inconvenience suffered by passengers in transferring from stage to stage and reclaiming and rechecking their baggage at Vallejo, the number traveling through between Oakland and Sacramento has increased since 1922, when Decision No. 10813 was rendered. The opinion in that case states (22 C. R. C., pp. 123-124):

> Referring to Exhibit No. 1 of applicant herein, the figures show through passenger traffic between Oakland and Sacramento for the period May, 1921, to March, 1922, ranging from a maximum of 582 per month to a minimum of 153 per month; and from Sacramento to Oakland for the same period, a maximum of 417 per month to a minimum of 112 per month; or an average for the 11 months period:
>
> From Oakland to Sacramento of 318
> From Sacramento to Oakland of 273,
> or an average per day of 20
>
> Passengers, Oakland to miscellaneous points north of Vallejo average 273 per month; and from Sacramento to miscellaneous points south of Vallejo, 129 per month, or a total average per day in both directions of 13.

We have previously extracted certain figures from applicant's exhibits indicating the passengers carried and without repeating them, it is sufficient to call attention to the following brief summary of passengers handled by applicant:

August, 1925—Oakland to Sacramento	396
Sept., 1925—Oakland to Sacramento	416
August, 1925—Sacramento to Oakland	495
Sept., 1925—Sacramento to Oakland	477

These figures are indicative of the general and substantial increase which has taken place in the volume of through passengers handled by applicant. During this time the railroads have added to their schedules, shortened their running time, and maintained unimpaired and even improved the excellent standard of service performed during 1922.

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Notwithstanding this, their patronage has steadily decreased, the number of passengers handled now being substantially less than those carried in 1922. To what extent the private automobile is responsible cannot be determined from this record. It is apparent that the dissolution of the through stage service previously conducted through Vallejo has not discouraged through travel over applicant's lines between Oakland and Sacramento, but on the contrary the number of passengers willing to undergo the inconvenience and annoyance incident to the transfer has been increasing steadily. It is doubtful whether the resumption of through service will materially injure the railroads. Their patronage has decreased, rather than increased, when it might normally have been expected that stage passengers, disgusted with the inconvenience of changing stages and rechecking baggage, would travel by rail instead. We believe that under the circumstances those who elect to patronize the stages should not be subjected to needless annoyance and inconvenience. Accordingly, we shall find that public convenience and necessity require the operation of a through service between Oakland and Sacramento, and intermediate points, via Vallejo, and a certificate will be granted accordingly.

The Extension of Certain Operative Rights Between Oakland and San Francisco as a Terminal.

As we have stated, the applicant seeks an extension of all operative rights (except between Oakland and Napa, Martinez, Vallejo and Sacramento and intermediate points) from Oakland to San Francisco as a terminal in connection with the consolidation of the system. At present only those passengers originating at Livermore or points south thereof may be carried to San Francisco; it is proposed to extend this zone westerly to Santa Rita so as to permit the handling of passengers originating at Santa Rita and Pleasanton as well as Livermore, in view of the rerouting privileges granted to applicant by Decision No. 15547 in Application No. 11004.

Applicant was first permitted to extend its operations to San Francisco by Decision No. 11566 in Application No. 7982, dated January 26, 1923 (22 C. R. C. 960), which limited this service to stages destined to or originating at Merced only, carrying passengers or baggage destined to or originating at Livermore or points south thereof.

In the Valley Transit case (Decision No. 14881, Applications Nos. 10279 and 10687, dated May 2, 1926 (26 C. R. C. 406), the Commission consolidated the lines of that system, authorized their transfer to applicant herein and permitted the establishment of through service over certain routes therein defined, including a route between points on the Valley Transit System and points on applicant's line extending from Merced to San Francisco via Oakland, the order providing that only passengers or express originating at or destined to Livermore or

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points south thereof may be transported between San Francisco and Oakland. Thus the territory between Merced and Bakersfield was thrown open to San Francisco as a terminal. Again in Decision No. 14886, Applications Nos. 10679 and 10680, dated May 7, 1925 (26 C. R. C. 421), the Commission authorized the transfer to applicant herein of the Joseph Miller Lines, consolidated them with the Valley Transit system and further consolidated them with the through routes referred to in Decision No. 14881 *supra,* including the route between Merced and San Francisco via Oakland, subject to the same restriction as to local service south of Livermore, thus opening San Francisco to the western San Joaquin valley, comprising generally the routes between Fresno and Los Banos, Merced and Los Banos, and Tracy and Los Banos.

Aside from the lines as to which no extension is sought, comprising what applicant terms its northern division, the routes from Stockton to Oakland, from Sacramento via Stockton to Oakland, and from Stockton to San Jose via Livermore, are the principal lines not now entering San Francisco.

Applicant has interpreted Decisions Nos. 14881 and 14886 as granting an operative right between Stockton and San Francisco, contending that in view of the situation then presented to the Commission, the provision unifying service between all termini and intermediate points of the routes mentioned therein, subject to the exception that "no passengers or express may be transported between San Francisco and Oakland unless such passengers and express originate at, or are destined to, Livermore or points *south* thereof" must be considered as including such intermediate traffic when originating at or destined to points *west* as well as south of Livermore, a construction which by necessary implication would operate to vest in the applicant the right to conduct a through service between Stockton and San Francisco. Shortly after these decisions were rendered, applicant advised the Commission in writing of its position, its letter dated May 27, 1925, being introduced in evidence as Applicant's Exhibit 14. The matter was discussed verbally with representatives of the Commission and applicant was advised to await the outcome of the instant proceeding. Not wishing to waive any rights and acting in the utmost good faith, applicant established and conducted a through service between San Francisco and Stockton, from November, 1925, until April, 1926, when the service was withdrawn pending the termination of this proceeding. The record shows that applicant has kept the Commission duly advised as to its actions in this respect.

If these decisions operated to vest in applicant the right to extend its service to San Francisco, then this proceeding was unnecessary, for if applicant possessed such an operative right, no showing of public

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convenience and necessity would be required. On the other hand, if the decisions did not have the effect claimed, then it is essential that a proper showing be made before such an extension can be granted.

It is apparent that Decision No. 11566 dealt only with traffic between Merced and San Francisco and that the limitation of local traffic between San Francisco and Livermore and points south was used advisedly, particularly in view of the circumstance that a through operative right from Stockton to San Francisco was also sought and was denied in that application. And from a consideration of the matters presented and determined in Applications Nos. 14881 and 14886 it seems clear that in adopting the same limitation, excluding local traffic except that originating at Livermore or points *south,* the Commission merely adopted and reaffirmed the provisions of its previous Decision No. 11566. Furthermore, we believe it is not sound policy to permit the vesting of an important operative right merely upon a narrow and technical construction of our decisions. Such decisions should be construed liberally in favor of the public and against the grantee of the certificate.

It is well established that "grants of franchises and special privileges by the state to private persons or corporations are to be construed most strongly in favor of the public, and that, where the privilege claimed is doubtful, nothing is to be taken by mere implication as against public rights."

Clark vs. *Los Angeles*, 160 Cal. 30, 29; 116 Pac. 722.

Sunset Tel. & Tel. Co. vs. *Pasadena*, 161 Cal. 273; 118 Pac. 796.

Civil Code, Sec. 1069.

Applicant called several of its agents and other representatives to show the need for the through service. Its agent at Oakland, F. T. Morss, testified that quite often the Southern Pacific electric trains were late, thus causing passengers from San Francisco to miss stage connections, frequently delaying them for two hours until the next stage schedule. This seriously inconvenienced many passengers who were destined to mountain points. The agent at San Francisco, Ira Smeltzer, stated that requests were received daily from fifteen to twenty prospective passengers desiring through service to Stockton. At present these passengers are directed to take the electric trains to the stage depot in Oakland. The agent at Stockton, H. E. Rea, testified that approximately seventy-five persons inquired daily for service to the bay cities, of whom about 75 per cent desired to go to San Francisco. During October, 1925, there were sold between 1000 and 1200 tickets for passage between Stockton and Oakland. This witness also testified that applicant's depot in Stockton was conveniently located and readily accessible to the downtown section.

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One of the ticket agents in Stockton, J. P. McGrath, stated that 65 per cent of those inquiring for transportation to the bay cities, and over 50 per cent of those buying tickets to such points, desired to travel to San Francisco. A driver, employed by applicant, testified that approximately one-half the passengers traveling from Stockton to Oakland were bound to San Francisco, and that daily he heard complaints from passengers about the transfer at Oakland to the electric trains and ferryboats. Another driver stated there was very little traffic originating between Sacramento and Stockton which was destined to bay cities, most of such passengers traveling to intermediate points.

H. A. Lewellen, formerly superintendent of transportation of Yosemite Transit System, testified that many passengers traveling upon that line from points beyond Stockton, daily inquired for through service to San Francisco.

F. D. Everman stated that since the cessation of the temporary through service between Stockton and San Francisco, passengers bound to San Francisco were required to change at Oakland to the Merced stage, and if that stage were late they were obliged to take the electric trains, porters being available for carrying their baggage to the trains.

A statement was submitted (Applicant's Exhibit 21), showing the passengers carried between Stockton and Oakland in both directions during August and September, 1925, the capacity of the cars handling this traffic and the vacant seats, a summary of which follows:

Statement of Passengers Carried Between Stockton and Oakland During August and September, 1925.

Oakland to Stockton

		Leave Oakland		*Arrive Stockton*	
	Car capacity	*Passengers carried*	*Vacant seats*	*Passengers carried*	*Vacant seats*
August	5,876	3,003	2,873	3,450	2,426
September	5,932	3,042	2,890	3,324	2,608
Total	11,808	6,045	5,763	6,774	5,034
Average per day	193	99	94	111	82
Average per schedule	27.5	14.1	13.4	15.8	11.7

Stockton to Oakland

		Leave Stockton		*Arrive Oakland*	
	Car capacity	*Passengers carried*	*Vacant seats*	*Passengers carried*	*Vacant seats*
August	5,866	3,292	2,574	3,189	2,677
September	5,684	3,144	2,540	3,035	2,649
Total	11,550	6,436	5,114	6,224	5,326
Average per day	189	105	83	102	87
Average per schedule	27	15	11.8	14.5	12.4

This includes seven schedules daily in each direction.

This indicates that in excess of 3000 passengers are carried monthly in each direction between Stockton and Oakland, and if we accept the

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estimate of applicant's witness, that approximately 75 per cent are bound to San Francisco, it would appear that over 2200 passengers per month travel by way of applicant's route between Stockton and San Francisco.

With respect to this proposed extension, applicant called nineteen witnesses aside from its own officials and employees, including merchants, druggists, business and professional men, and city officials, residing at Stockton, Pleasanton, Livermore and Santa Rita, all of whom traveled more or less frequently over applicant's line to Oakland and thence to San Francisco. They complained of the inconvenience of changing to the electric trains upon arriving at the stage terminal at Oakland; they stated that a direct through service would be used; and some who came in contact with the public in their respective communities detailed the frequent inquiries received relative to a through service to San Francisco.

At the conclusion of applicant's showing, protestant Southern Pacific Company moved to strike out all testimony relating to public convenience and necessity for the transportation of passengers between Stockton and San Francisco, on the ground that since applicant was then serving these points under an asserted grant of authority from the Commission, the question of public convenience and necessity was not involved in the case. In view of our conclusion, stated above, that applicant possessed no such operative right, the motion will be denied.

Protestant Southern Pacific Company introduced evidence showing the location of the various railroad depots in Stockton; that its own depot was conveniently located and accessible to the principal car lines; that there had been no complaint as to its service between San Francisco and Stockton, nor had there been any demands for additional service between those points or between San Francisco, and Fresno, and Merced. It offered a tabulation showing that between San Francisco and Lodi, via Stockton, the one-way rail fares were higher than the stage fares, but beyond Galt the rail fares were lower. A travel study was submitted showing the number of passengers handled in 1922, 1923, and 1924 between San Francisco and Modesto, Turlock, and Merced, respectively, these being selected as representative points, which was supplemented by testimony as to passengers handled in 1925.

The following statement is a summary of this exhibit:

Between San Francisco and—	*Modesto*	*Turlock*	*Merced*
1922	12329	4481	7767
1923	12725	4305	8188
1924	9634	3616	7334
1925	9894	4028	9231

Accepting 1923 as a normal year, the traffic decreased by 10% in 1924, but increased to a slight degree in 1925, this being due, according to one of protestant's witnesses, to certain excursions designed to

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stimulate traffic. C. E. Peterson, one of protestant's witnesses, testified that the reduction in 1924 was coincident with the establishment of through service over the California Transit lines to San Francisco under Decision No. 11566, but was uncertain whether contemporaneously there had been a general increase or decrease over other rail lines, nor to what extent the private automobile had contributed to the reduction of passenger traffic.

Testimony was also introduced descriptive of the trains operated between Stockton and San Francisco showing the equipment used, the seating space available and the passengers carried.

Southern Pacific Exhibit 4 shows the passengers carried and the space available during the period, November 22d to 28th, inclusive, 1925, a summary of which follows:

Train numbers	*Average seats available*	*Average maximum number of seats occupied*
31	198	59
32	137	45
35	89	47
36	346	129
37	166	61
38	202	93
79	155	70
80	184	93
82	149	57
24-210	127	38

This indicates that apparently Southern Pacific Company has ample space available for handling passengers traveling between these points.

Exhibits were also introduced showing the relative rail and stage schedules between San Francisco and Stockton. From these it appears that Southern Pacific Company operates daily eight schedules from San Francisco to Stockton and five in the opposite direction; that over all rail lines there are fifteen trains daily from San Francisco to Stockton, and thirteen in the opposite direction; and that applicant operates eight schedules daily each way between these points.

This protestant called three witnesses, one of whom traveled frequently, and another occasionally, between San Francisco and Stockton, using the rail service and finding it satisfactory. One of them testified that the stages were frequently crowded, and that the transfer from the stage to the electric trains at Oakland was inconvenient. The secretary of the Stockton Merchants Association testified that his organization had decided to remain neutral in this controversy. Previously one of applicant's witnesses testified that he had been requested by the president and secretary of the association to testify on behalf of applicant, but apparently the organization subsequently determined to take no official action.

The Atchison, Topeka and Santa Fe Railway Company, in support of its protest, called one of its pasenger traffic officials, who described

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its service and schedules, stated its passenger business was decreasing, and asserted that possibly the service might be curtailed. Its trains, with one exception, operate beyond Stockton serving important points in the San Joaquin valley.

In connection with the travel study offered by Southern Pacific Company referred to above, applicant introduced two statements showing the passengers handled between San Francisco and certain stations in the San Joaquin valley during August, September and October, 1925, from which the following figures have been taken:

	To San Francisco from points named below				*From San Francisco to points named below*			
	Aug.	*Sept.*	*Oct.*	*Total*	*Aug.*	*Sept.*	*Oct.*	*Total*
Livermore	353	272	431	1056	422	315	494	1231
Modesto	360	354	358	1072	304	347	344	995
Turlock	127	84	93	304	105	100	74	279
Merced	154	110	107	371	79	65	72	216
Fresno	432	435	386	1253	345	379	212	936
Total of all points shown in App. Ex. 22 and 23	1719	1611	1397	4727	1469	1485	1404	4358

If we assume that the total number of passengers handled in 1925 is fairly proportionate to those shown above, the passengers handled by applicant during the year between these points were approximately as follows:

	To San Francisco from points named below	*From San Francisco to points named below*
Livermore	4,224	4,924
Modesto	4,288	3,980
Turlock	1,216	1,116
Merced	1,484	864
Fresno	5,012	3,744
Total all points shown in App. Ex. 22 and 23	18,908	17,432

To what extent the losses of the rail carriers may be attributed to private automobiles rather than stage competition cannot be determined from this record, if indeed it be a fact susceptible of proof.

Applicant has shown that it is carrying in excess of 3000 passengers monthly in each direction between Stockton and Oakland, of whom about 75 per cent are destined or originate in San Francisco. All these passengers are subjected to the annoyance and inconvenience of transferring at Oakland, either to another stage or to the electric railroad lines, a circumstance which has been productive of many delays and much inconvenience.

In our opinion applicant has shown the need for an extension of its service to San Francisco from points on its lines except as limited in the amended application; consequently a certificate for this service will be granted. In this connection applicant will be permitted to establish a fare of 25 cents for the transbay service, which has been established by the evidence as reasonable for the service performed. Because of

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the rerouting of applicant's lines through Santa Rita and Pleasanton, the former restriction limiting the San Francisco service to traffic originating at Livermore or points south thereof will be removed and the boundary of the local zone will be moved westerly to Santa Rita, no local traffic being permitted west of that point.

We have considered elsewhere in this opinion the extension of service to San Francisco from points on the lines formerly operated by the Yosemite Trasit System.

Unification of Yosemite Transit Lines.

The amended application alleges the filing of Application No. 12524, seeking approval of the transfer to applicant of the Yosemite Transit lines. Pending the hearing this was granted by Decision No. 16012, and applicant now asks that such lines be consolidated with its system.

The Yosemite Transit lines, as they existed when this case was submitted, extend from Stockton to Sonora and Tuolumne, with a branch extending from Yosemite Junction (near Sonora) to Groveland, and in the summer this branch line is operated to Carl Inn. We are not concerned here with the additional rights granted since the submission of this case by Decision No. 17912 in Application No. 10684 and consolidated cases.

The amended application pleaded the extension sought by Application No. 10913 (then heard and under submission) between Escalon and Manteca, which, if granted, would provide a shorter route than that existing via Stockton, for a through service between San Francisco, Oakland and Carl Inn, connecting there with another stage service to Yosemite Valley. At the conclusion of the hearing in this case, applicant's counsel announced no consolidation of the Manteca-Escalon route, if granted, would be sought in this case. Subsequent to the submission of this case, the cut-off between Manteca and Escalon was authorized by Decision No. 17912. However, in view of what has been stated, it will not be considered in this proceeding.

In the past, applicant maintained joint through rates with the Yosemite Transit, but since the absorption of that line applicant asserts a consolidation should properly replace the former arrangement. Applicant proposes a through service between San Francisco and Carl Inn, via Yosemite Junction, connecting at Carl Inn with stages at Yosemite Valley, operating one schedule daily between June 1st and October 15th, the proposed service obviating a stopover of one night now required at Carl Inn. Such a through service will stimulate traffic to the Yosemite Valley, it was claimed. Service will be maintained between San Francisco Bay points and Yosemite Transit points, via Stockton, and possibly service into the Yosemite National Park by one line and out by another may be established. The proposed time schedules and tariffs

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of fares were submitted, the through fares being based on a combination of the present local fares.

In addition to the tourist traffic, applicant expects to transport a substantial number of laborers to various lumber camps, mines and construction camps of the city of San Francisco in connection with its Hetch Hetchy development along or adjacent to the Yosemite Transit lines. At present most of this travel is carried by "rent-car" operators, or cars operated by the employment agencies, very few traveling by rail. Much of this traffic will originate in Sacramento, from which point through cars will be operated if sufficient patronage develops; also, there will be some travel from the labor centers about the bay. At present the only labor camp directly served by applicant is at Moccasin; to serve the others, now operative rights must be secured, or arrangements made for transportation by the employers.

Applicant called several witnesses to show the need for the proposed consolidation. Its agent at Jamestown related the importance of a through service to handle laborers, and described the principal camps where they will be employed. Six witnesses, residents and business men of Sonora and Jamestown, testified in substance that a through and direct service to San Francisco and Oakland and Sacramento was needed, eliminating the existing delays at Stockton; that to facilitate the transportation of laborers to the camps in the mountains a through service should be conducted from Sacramento, an important labor center; that the proposed service to Yosemite Valley will be a great convenience, because it eliminates a lay-over of one night at Carl Inn; and that the Sierra Railway operates but one schedule daily connecting with Valley and Bay points, leaving Sonora at 7:40 a.m., which is too early.

Protestants, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, and Sierra Railway Company, introduced tabulations showing their fares and the time schedules covering the service operated by Sierra Railway from Tuolumne via Standard, Sonora and Jamestown to Oakdale, where it connects with the Santa Fe and the Southern Pacific for Valley and Bay points.

One train daily in each direction is operated by the Sierra Railway, the following table showing the connecting service:

A. T. & S. F.	*S. P.*		*S. P.*	*A. T. & S. F.*
A. M.	A. M.		P. M.	P. M.
7:00	7:00	Lv. Tuolumne Ar.	3:56	3:56
7:42	7:42	Sonora	3:15	3:15
8:00	8:00	Jamestown	2:47	2:47
9:55	9:45	*Oakdale*	12:55	12:40
10:55	11:05	Stockton	11:42	11:35
1:35	1:57	Oakland	9:12	8:30
1:45	2:30	Ar. San Francisco Lv.	8:40	8:30
P. M.	P. M.		A. M.	A. M.

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A through car is operated daily in each direction by the Sierra Railway and Southern Pacific between Tuolumne and Oakland Pier, in which the through traffic does not average more than five passengers per trip, nor does the total travel exceed twenty per trip. Most of the travel is from or to Bay points, being quite light to Sacramento and valley points. Protestants asserted the Sierra Railway schedule was made to accommodate the traffic, and was most convenient to the majority of passengers.

H. A. Butchart, general passenger agent of Sierra Railway Company, testified that applicant, under its present operative rights, can directly serve but one camp, viz, at Moccasin, and that as to the other camps, they can be reached as conveniently from Hetch Hetchy Junction, on the Sierra Railway, as from Keystone, on the California Transit. Unless applicant obtains additional operative rights from Keystone, laborers must be carried from that point by other lines or by private conveyance.

Protestants, Southern Pacific Company and the Sierra Railway Company, called six witnesses, all of whom were residents, business men and public officials of Sonora and Jamestown. They testified in substance that they used the railroad service more or less frequently from their homes to Stockton, Sacramento, Oakland or San Francisco, finding the train service, and particularly the through car, convenient and satisfactory, there being no need for any additional transportation service, in their judgment. Some of them testified they had observed but few passengers traveling in the through car. Others said they used the stage occasionally, particularly when they had been unable to leave early enough to take the train.

In our opinion the evidence justifies a consolidation of the Yosemite Transit lines with the rest of applicant's system. The testimony indicates a need for such a service to accommodate tourists, the general public and particularly laborers traveling in the camps in the mountains. Applicant appears to be able to furnish a more flexible and more comprehensive service than the rail line. Although the rail service to this territory is of high class and is dependable, it does not appear adequate to meet the needs of the public. Consequently a certificate of public convenience and necessity will be granted authorizing the consolidation of all the lines formerly owned by Yosemite Transit with those of applicant, and, in addition, through service will be permitted between points on these lines and San Francisco.

Unification of Express Service.

In regard to the transportation of express, applicant seeks:

(1) To establish uniform rates, rules and regulations;

(2) To extend its operative rights to San Francisco.

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At present applicant's operative rights for the transportation of express are not uniform throughout the system, composed as it is of certificates granted or transferred at different times, many of them containing varying provisions governing the handling of express. For example, on the Joseph Miller lines a weight limit of 75 pounds exists, but elsewhere it is 100 pounds; between Stockton and San Joaquin Valley points, the through rates are based on local combinations requiring the use of several minimum rates, which in the aggregate are so high as to be prohibitive, this situation being due to the limitations contained in the tariffs originally filed by individual lines, now a part of applicant's system, which base their operative rights on operations conducted prior to May 1, 1917. Following Decision No. 14881 (26 C. R. C. 406) in the Valley Transit consolidation, applicant, with the Commission's consent, was obliged to continue in effect the former Valley Transit rates, thus perpetuating the old chaotic rate system.

Applicant proposes a system of uniform rates, applicable within and between zones of 40 miles each, extending from 40 to 360 miles; and will establish a uniform weight limit of 100 pounds per package. It submitted the proposed rates, rules and regulations, fully explaining them. The rate basis, as shown by applicant's Exhibit 13, provides a fixed charge for overhead and handling, commencing at 20 cents for shipments of one to twenty pounds, and progressively increasing to 85 cents on shipments of 75 to 100 pounds; to this is added a charge for each zone, commencing with 1 cent per pound per zone upon shipments of one to twenty pounds, which progressively decreases to 7-20 cent per pound per zone upon shipments of 75 to 100 pounds. In the opinion of L. G. Markel, the traffic expert engaged by applicant to prepare a revised schedule of express rates, rules and regulations, the proposed rates will be compensatory, yielding substantially the same revenue as the present rates.

Applicant introduced testimony of its officials and of shippers, showing the demand for uniform express rights, and the inconvenience now suffered under present methods; also a detailed explanation was made of the proposed rules and regulations.

In this regard the agent at Oakland testified there was a continuous demand for the shipment of express to points beyond Vallejo, consisting mostly of automobile accessories, averaging twenty-five pounds in weight and moving within a radius of forty miles. Similar testimony was given by the agent at Stockton relative to demands for shipment to Fresno, Sacramento, Oakland, San Francisco and way points, and the difficulties experienced because of the combinations of minima which result in prohibitive rates.

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About 80 per cent of the shipments travel distances between 40 and 80 miles; the commodities handled include automobile parts and accessories, such comprising over 50 per cent of the total, the remainder consisting of flowers, clothing and dry freight, as the rate structure is not designed to attract low grade commodities; the greater proportion of all shipments do not exceed in value $20 each; and it appears that 90 per cent of all shipments handled are under 35 pounds, and 45 per cent under 5 pounds.

Applicant proposes to serve 131 points, of which 81 are also served by the American Railway Express Company. Between San Francisco and four typical points served by both companies, viz, Altamont, Stockton, Atwater and Madera, applicant's rates on auto parts, not boxed or crated, are lower than the American Company, but as to other commodities the rates vary according to weight and distance. The points not served by the American Company are mostly small towns. It appears that applicant's service to certain rail points, such as Vacaville, Cordelia, Los Banos, Dinuba, and Porterville, was more frequent and expeditious, while on the other hand it was conceded that Fresno and Bakersfield had more frequent rail service.

Mr. Markel testified he had investigated the present rates on the Yosemite Transit lines and found a need for revision. The same uniform rate schedule will be extended to these points.

With regard to the extension of express operative rights to San Francisco, the agent at San Francisco testified he received frequent requests for the shipment of express to points such as Modesto, Merced, Stockton and Sacramento, consisting mostly of automobile parts and accessories; the agent at Stockton related the continual demands for shipments to San Francisco consisting principally of automobile accessories and machinery and implement parts, stating that frequently emergency shipments to or from Stockton were delivered to or received from the stage terminal at Oakland by messengers sent across the bay by San Francisco shippers, mostly dealers in automobile accessories and parts.

The proposed schedules were offered, covering the entire system, it appearing that between San Francisco and Stockton, in particular, eight schedules each way will be operated daily.

At present no collection and delivery service is contemplated, nor is this feature covered by the proposed rates. Should the volume of business increase sufficiently such a service may be undertaken but that question is not before us in this proceeding.

Applicant called 23 witnesses comprising business men and city officials of Stockton, San Francisco, Pleasanton, Livermore, Tracy, and Santa Rita. For the most part those engaged in business were dealers in automobile parts and accessories, some, however, handling electrical

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appliances, photo engraving, or were engaged in the garage business. All testified to the need for an expeditious and dependable service for the transportation of light express packages consisting principally of automobile parts and accessories, and machinery and repair parts. Ninety-five per cent of all automobile parts are purchased in San Francisco, this city being the principal market for these commodities because of the limited supply available in the smaller cities and towns. All testified in substance they had used the stage service of applicant and found it satisfactory and expeditious. Because of the fact it has no right to handle express from San Francisco, emergency shipments of automobile parts and accessories are frequently brought by messenger from San Francisco to Oakland, and there delivered to the stage company, and on many occasions shipments destined ultimately to San Francisco are carried by messenger from Oakland to San Francisco.

Some of these witnesses testified it was impossible for a shipment of express handled by the American Railway Express Company to be delivered in Stockton upon the day of shipment in San Francisco, while still others described the unsatisfactory service of that company in relation to this class of commodities. From their testimony it appears that most of these shipments will not weigh over 20 to 25 pounds per package. Some of the evidence related to the need for an express service from Stockton to San Joaquin Valley points, complaint being made particularly as to applicant's present rates, which as we have pointed out are proposed to be remedied by the new scale of rates. From the testimony of these witnesses it appears that a pickup and delivery service is neither desirable nor would it be used for shipments of this character; because of the imperative need for expeditious handling, shippers prefer to deliver such shipments directly to the stage depot, or to come there to receive them.

One witness at Stockton, formerly an employee of the American Railway Express Company, suggested certain changes in applicant's proposed rules and regulations which, however, appeared to relate to minor matters.

A news agent at Stockton described the necessity for a through express stage service to San Francisco for handling his papers and, in addition, testimony was given as to the need and desirability for the transportation of news letters from newspaper correspondents to their respective papers in San Francisco. Another witness at Stockton described the need for handling small shipments of paper stock consisting usually of paper not ordinarily kept on hand, but needed from time to time to fill rush orders.

Neither of protestants, Southern Pacific Company nor American Railway Express Company, has any objection to the readjustment of

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applicant's rates, rules and regulations, their protest being limited to the proposed extension of service.

Protestant American Railway Express Company introduced evidence describing its service and rates. It maintains at Stockton a collection and delivery service, operating two regular schedules daily and affording a special service for emergency shipments. It is possible, by using the depot-to-depot service, to obtain shipments immediately upon the arrival of trains, this being true elsewhere, as well. Two depots are maintained, one at the Southern Pacific station and the other uptown.

George S. Reed, route agent, stationed at Fresno, described the service in the San Joaquin Valley, stating that a collection and delivery service was maintained at all important points. About 95 per cent of its business moves between the larger towns, which are served by more frequent schedules. Unlike the applicant, which proposes but a single rate (other than a commodity rate on news letters), protestant's rates vary with the commodities, extending over a wide range.

Protestant introduced exhibits describing its schedules, rates and the facilities used in its collection and delivery service, the latter requiring a heavy investment which could be obviated were this service discontinued. But this is demanded by most shippers, however, and has kept pace with increased traffic.

George Baker, supervisor, San Francisco division, described the service conducted at San Francisco and Oakland, showing in considerable detail the facilities used in the collection and delivery service, in which there is a substantial investment. Similar testimony was given by A. S. Weston, traffic representative, who detailed the expense of conducting this service, and the saving that could be effected were it discontinued.

Edward Stern, chief clerk, superintendent of traffic, submitted a statement showing comparative rates of applicant and protestant, tending to show that protestant's rates were lower, particularly as to shipments over 35 pounds. He stated that the average weight of express l.c.l. shipments was 82 pounds.

Four witnesses called by protestant Southern Pacific Co., merchants of Davis, Dixon, and San Francisco, testified that the railway express service was adequate, and was satisfactory for small emergency shipments.

From the testimony offered by protestants it appears that until the time of the hearing in this case, a package tendered to protestant in San Francisco at 9 a.m. the usual hour for the opening of business houses, would not arrive in Stockton before 8 p.m., and would not be delivered until the next morning. During the course of the hearing, however, a new schedule was established on the Santa Fe train leav-

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ing San Francisco at 2 p.m. This train arrives at Stockton at 4.53 p.m. when express shipments may be delivered to shippers waiting at the station, otherwise, due to the necessity of transporting them to the express depot in the Southern Pacific station, they are not available for delivery to shippers waiting there until 5.40 p.m., which is after usual business hours. If the consignee does not call for the package, it is delivered the next morning; and, in San Francisco shipments intended for this train must be picked up by 10 a.m. or delivered to the Polk street depot (the center of the automobile district), by noon, or delivered direct to the ferry depot.

Considerable testimony was introduced concerning the relative convenience of location and accessibility of the depots of the respective carriers in Stockton. While the express depot is conveniently located with respect to the business district, the stage depot is closer to the automobile accessory houses, a class of shippers which will form the bulk of applicant's patronage.

Although protestant handles express on many train schedules between San Francisco and Stockton, the 2 p.m. Santa Fe train offers the only service by which express may be picked up in San Francisco and be made available for delivery in Stockton the same day. Mr. Baker stated that although the company had endeavored to stimulate earlier shipping, the general shipping public in San Francisco had formed the habit of tendering the greater proportion of its business after 4 p. m., consequently most express traffic moved from San Francisco on night trains, the company having adjusted the service to meet the demands of the great majority of its shippers.

Applicant offers three daily schedules from San Francisco by which shipments may be delivered at Stockton on the same day, being shipped and received within business hours (Applicant's Exhibit 8). Applicant offers a specialized service for the handling of small packages, serving particularly the needs of shippers of automobile parts and accessories. Most of these shipments must be expedited and the stages, satisfying that requirement, have developed a substantial volume of such shipments. A collection and delivery service, even if established, would rarely be used. On the other hand, it was stated by Mr. Baker that aside from field milk and cream, and fish, but an infinitesimal part of the American Railway Express shipments was picked up for or delivered directly to the shipper. While protestant's collection and delivery service is extensive and involves considerable expense, it is apparent that it is not devoted primarily to this local service, but is conducted in connection with the company's nation-wide operations.

We are convinced that applicant in the past has been operating under a handicap, in respect to its express service, which seriously impairs

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its ability to serve the public adequately. Its express service will therefore be unified, and permission will be granted to establish the proposed rates on a zone basis, and the proposed rules and regulations.

As we have stated, it appears that upon the Joseph Miller operative rights there is a maximum weight limit of 75 pounds per package, while upon other operative rights authorizing the transportation of express the weight limit is 100 pounds per package.

Protestant American Railway Express Company has challenged applicant's right to handle express over the northern division, claiming it has no authority to do so. In a general way this covers the routes between Oakland and Martinez, Oakland and Napa, Oakland and Vallejo, and Vallejo and Sacramento.

We have examined the decision underlying these operative rights, together with tariffs filed thereunder, and we find that no such express rights exist, the certificates granted applicant's predecessors conferring only the right to carry passengers and baggage. Accordingly, we shall find, and our order will provide that applicant does not possess these operative rights. Moreover, the evidence was insufficient to show public convenience and necessity for granting an express right *de novo* over these routes.

The evidence shows the need for extending an express service to San Francisco so as to permit operations between that city and all points on its lines embraced within this proceeding, except the routes excluded by the amended application, namely, between San Francisco and Napa, Martinez, Vallejo and Sacramento, respectively, and intermediate points (as to which, as we have stated, no express carrying rights exist). Therefore, this extension will be granted, and applicant will be permitted to establish such a service, subject to its proposed rates, rules and regulations. For the purpose of uniformity, the maximum weight limit, of 100 pounds per package, will be established in connection with this service. Since we are dealing with an express service conducted incidentally to a passenger transportation service, which is applicant's primary function, we shall limit the express rights herein granted to property transported in passenger vehicles only.

THE GENERAL CONSOLIDATION.

Having disposed of the specific issues embraced in this proceeding, we shall now consider the proposed general consolidation and unification of applicant's lines.

Applicant offered detailed statements (Applicant's Exhibit 3 and 3A) showing the history of its operative rights; it introduced its proposed fares and time schedules; and submitted proposed passenger rules and regulations (Applicant's Exhibits 5 and 6) which it desires

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to extend throughout the system. Testimony was also introduced showing the benefits and economies resulting from the unification of the lines; and the consequent ability to render through service whenever required by the demands of traffic. In this connection it may be said that but little objection was voiced to the general consolidation, or to the proposed fares, rules and regulations. One of the protestants, San Francisco-Sierra Motor Coach Lines, pointed out certain discrepancies between applicant's certificates and its method of operations, which will be considered later.

We have examined the certificates shown in applicant's Exhibits 3 and 3A, which constitute the chain of title to applicant's operative rights, and without setting them forth in detail here, they vest in applicant the right to conduct an automobile stage service, as a common carrier of passengers, baggage and express, when specifically mentioned, over the following routes:

Granted to California Transit Co. by transfer from Western Motor Transport Co. pursuant to Decision No. 10073, Application No. 7340, dated February 8, 1922 (21 C. R. C. 211).

This authorized operations over the following routes:

(1) Between Rodeo and El Cerrito and intermediate points.

(2) Between El Cerrito and Oakland and intermediate points, excepting service locally between Richmond and Oakland and intermediate points.

(3) Between Oakland and Martinez and intermediate points, including Albany, Richmond Junction, San Pablo, Tank Farm, Pinole, Rodeo, Tormey, Crockett and Port Costa Junction.

(4) Between Oakland and Martinez, via Franklin Canyon and Glen Frazier, and intermediate points, including San Pablo, Tank Farm, Pinole, Franklin Canyon Junction and Glen Frazier, excepting service locally between Oakland and Stege Junction.

(5) Between Oakland and Vallejo, excepting service locally between Oakland and Stege Junction, and including intermediate points, consisting of San Pablo, Tank Farm, Pinole, Rodeo, Tormey and Crockett. (The original certificate, Dec. 7309, App. No. 5347, contemplated operations from Crockett to Morrow Cove via the Six Minute Ferry.)

(6) Between Sacramento and Vallejo, and intermediate points, including Davis, Dixon, Vacaville, Fairfield and Cordelia.

(7) Between Napa and Sacramento Junction.

(8) Between Oakland and Napa and intermediate points, excepting service locally between North Vallejo and Napa and intermediate points. (Subject to reservations hereinafter set forth.)

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Rerouting permitted by Decision No. 15547, Application No. 11004, dated October 21, 1925.

This authorized the rerouting of all service between Vallejo and Sacramento via Suisun, so as to permit operations between Cordelia and Fairfield via Thomasson and Suisun, instead of via Rockville.

The foregoing constitutes applicant's northern division. A description of its operative rights in its southern division follows:

Granted to Star Auto Stage Company (a corporation, the name of which was subsequently changed by appropriate Superior Court decree to California Transit Company) by transfer from Star Auto Stage Association, pursuant to Decision No. 8150, dated September 25, 1920, and Decision No. 8231, dated October 11, 1920, in Application No. 5163.

This covered the following routes:

(1) Between Stockton and Sacramento and intermediate points, including Five Mile House, Henderson, Woodbridge, Galt, Arno, McConnell and Elk Grove.

(2) Between Stockton and Modesto, and intermediate points, including French Camp, Manteca, Ripon and Salida.

(3) Between Stockton and Oakland and intermediate points, including Tracy, Altamont, Greenville, Livermore, Dublin and Hayward.

(4) Between Stockton and Tracy and intermediate points, including Garwood Bridge and White Hall. (Mr. Everman testified that this route, being impracticable, was abandoned at the time of this transfer.)

(5) Between Modesto and Merced and intermediate points including Ceres, Esmer, Keyes, Turlock, Delhi, Livingston, Arene, Atwater and Buhach.

(6) Between Stockton and San Jose and intermediate points including French Camp, Banta, Tracy, Altamont, Livermore, Pleasanton, Sunol, Mission San Jose, Warm Springs and Milpitas.

(The foregoing includes express rights, limited to 100 pounds per package, as shown by tariffs filed to define the prior rights of Star Auto Stage Association.)

Granted to California Transit Co. by Decision No. 11566, Application No. 7982, dated January 26, 1923 (22 C. R. C. 960).

This authorized applicant to operate between San Francisco and Merced via Oakland, over the existing route between Oakland and Merced, subject to the following condition:

"The certificate herein granted shall authorize the operation into San Francisco of stages destined to or originating at Merced only and no passengers or baggage whatsoever shall be transported between San

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Francisco and Oakland, or Oakland and San Francisco upon such stages unless such passengers and baggage are destined to or originate at Livermore or points south thereof."

Granted by Decision No. 14881, Applications Nos. 10279 and 10687, dated May 2, 1925 (26 C. R. C. 406).

This authorizes the consolidation of the lines of Valley Transit Company, their transfer to California Transit Company, and the consolidation of such lines with certain through routes of California Transit Company.

The Valley Transit lines consolidated are:

(1) Between Fresno and Bakersfield via Malaga, Fowler, Selma, Kingsburg, Traver, Coshan, Visalia, Farmersville, Exeter, Lindsay, Strathmore, Porterville, Terra Bella, Ducor, Richgrove, Delano, McFarland, Famosa, Kimberlena, Lerdo and Seco. (Dec. No. 8869, App. No. 6433.)

(2) Between Fresno and Madera; Madera and Merced; Fresno and Bakersfield via Tulare; and Fresno and Kingsburg. (Dec. No. 9507, Apps. Nos. 7067 and 7068; Dec. No. 13692, App. No. 9849.)

(3) Between Fresno and Kingsburg. (Dec. No. 10227, App. No. 7609.)

(4) Between Fresno and Selma. Dec. No. 10508, App. No. 7653.)

(5) Between Fresno and Dinuba, via Fowler, Selma, Parlier and Reedley. (Dec. No. 12437, App. No. 9251.)

(6) Between Visalia and Dinuba via Yettem, Cutler, Orosi and Sultana; Tulare and Porterville via Lindsay and Strathmore; and Tulare and Visalia via Mooney Grove. (Dec. No. 13692, App. No. 9849.)

The decision consolidated this group of routes within itself (except local passenger service between Selma and Parlier) and also with certain through routes of California Transit Company described as follows:

> * * * the operative rights heretofore granted California Transit Company authorizing the operation of automobile stages between Sacramento and Stockton, Stockton and Modesto, Modesto and Merced, and San Francisco, Oakland and Merced, which were granted by Decisions Nos. 8150 and 8231, in Application No. 5133 and by Decision No. 11566, in Application No. 7982, such operations to include transportation of passengers and express between all the termini and intermediate points served by and along such routes, except that no passengers or express may be transported between San Francisco and Oakland unless such passengers and express originate at, or are destined to, Livermore or points south thereof.

The decision grants express, as well as passenger rights, over the lines consolidated, subject to a maximum weight limit of 100 pounds per package.

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Granted by Decision No. 14886, on Applications Nos. 10679 and 10680, dated May 7, 1925 (26 C. R. C. 421).

This vests a new operative right in Joseph Miller, consolidates it with the Miller lines, authorizes the transfer of the Miller lines to California Transit Company, and consolidates such lines with the Valley Transit lines (transferred by Dec. No. 14881), and with certain through routes over the California Transit lines.

The new operative right granted to Joseph Miller permits the transportation of passengers and express (limited to a maximum weight of 75 pounds per package) over the following route:

Between Fresno and Los Banos by way of Madera, Califa and Chowchilla and intermediate points.

The consolidation of such operations was permitted "with those now conducted by Joseph Miller pursuant to Decision No. 14407 (25 C. R. C. 699), dated December 27, 1924, in Application No. 9889, between Fresno, Mendota, Firebaugh, Oxalis, Dos Palos, Los Banos, Volta, Gustine, Newman, Crows Landing, Patterson, Westley, Vernalis, Tracy and Merced via Los Banos and intermediate points."

Permission is granted for the transfer by Joseph Miller to California Transit Company of the operative rights granted therein and by Decision No. 14407, as above described; and for the consolidation of such operative rights with those of Valley Transit Company, which were transferred to California Transit Company by Decision No. 14881, and also for their consolidation with certain through routes of California Transit Company between Sacramento and Stockton, Stockton and San Jose, Stockton and Tracy, Stockton and Oakland, and San Francisco, Oakland and Merced, subject to the same local exception as to passengers and express handled to and from San Francisco, as set forth in Decision No. 14881.

The decision recognizes express rights on the Miller lines, subject to a maximum weight limitation of 75 pounds per package.

Rerouting authorized by Decision No. 15547, in Application No. 11004, dated October 21, 1925.

This permits the California Transit Company to reroute a portion of its stage service between Oakland and Stockton via Pleasanton in either direction so that such stages shall operate between Santa Rita and Livermore directly through Pleasanton, serving Santa Rita, Pleasanton and Livermore, locally and in connection with other points on its lines.

Granted by Decision No. 16012, in Application No. 12524, dated February 16, 1926.

This authorized R. R. Young, doing business under the fictitious name of Yosemite Transit, to transfer to California Transit Company

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an operative right for the transportation of passengers and express between Stockton and Carl Inn and intermediate points.

Young's title is based in part on Decision No. 7795, in Application No. 5162, dated June 4, 1920, authorizing the transfer to him from Star Auto Stage Association of certain operative rights for the transportation of passengers and express, based on operations prior to May 1, 1917, confirmed by tariffs filed as required by General Order No. 47, between Stockton and Groveland, Stockton and Sonora, and Sonora and Tuolumne, over the following routes:

Over the Mariposa county road between Stockton and Valley Home; over the county road between Valley Home and Oakdale; over the State highway between Oakdale and Orange Blossom; over the county road between Orange Blossom and Knight's Ferry; over the State highway between Knight's Ferry and Chinese Camp via Keystone; over the county road and the State highway between Chinese Camp and Jamestown; and over the Big Oak Flat road between Chinese Camp and Groveland.

In addition he acquired from E. E. Tremain, pursuant to Decision No. 7562, Application No. 5649, dated May 10, 1920, the right to operate in the summer period between Groveland and Carl Inn.

By Decision No. 11475, Application No. 8039, dated January 8, 1923, Young was authorized to conduct a through service between Stockton and Carl Inn and intermediate points via his existing route through Groveland, the decision providing that the authority granted "in no way is additional to the two certificates heretofore held by him, but does in effect cancel the two individual certificates through the granting of a blanket certificate covering his entire operation."

Decision No. 16012 also operated to vest in applicant herein all inchoate rights owned by Young arising from applications filed or heard but not decided. This included, among other things, the matters embraced in Application No. 10913.

Some of applicant's present operations were assailed by protestants, the latter contending that applicant was acting in violation of or beyond its operative rights. We shall consider these matters separately.

Operations Over Shortway Ferry.

Applicant now transports its stages across Carquinez Straits by ferry operating between Shortway on the south shore to Morrow Cove on the north. Its right to do so is questioned.

Originally the ferry operated between Crockett and Morrow Cove, and upon the consolidation of the two ferry companies was operated (as at present) between Shortway and Morrow Cove, the other routes being abandoned. Since the Shortway-Morrow Cove ferry was established, it has been the only public ferry operating across the straits.

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Certificates were granted to applicant's predecessors to Rodeo and to Crockett, but not specifically to Shortway, a point intermediate. With the change in ferry operations, stages were rerouted accordingly, the Commission being so advised at the time by counsel for the operators, but no new certificate was issued. It appears that throughout the history of these operations applicant and its predecessors have acted in good faith, changing the route only because of the necessities of the case, there being no other means of getting the stages across. Since applicant's operative rights in this respect are deficient, it will be granted a new certificate permitting the operations of stages over the Shortway ferry, in connection with its present operative rights.

Morse Lines.

These lines, extending between Pacific Grove, Del Monte and Monterey to Los Banos and Merced, were leased to California Transit Company, pursuant to Decision No. 14917, Application No. 11004, dated May 12, 1925. By stipulation of counsel for applicant they were excluded from the proposed consolidation.

Thornton Road Route.

For a time applicant routed its stages between Sacramento and Stockton over the Thornton road, because the Lodi route was then impassable. The right to operate over this route is not involved in this proceeding, so applicant states.

Franklin Canyon Route.

The right to operate between Rodeo and Livermore via Franklin Canyon, granted to Western Motor Transport Company by Decision No. 7340, Application No. 5274, has been abandoned, the Commission refusing, for that reason, to sanction its transfer to California Transit Company by Decision No. 10073, Application No. 7340 (21 C. R. C. 211). In this proceeding, applicant admitted the abandonment of that route.

Applicant also asserted title to an operative right between Oakland and Martinez, via Franklin Canyon. Stages are now operated between these points via Crockett, the Franklin Canyon route having been temporarily abandoned, pending the determination of applications then pending for service beyond Martinez. Applicant's counsel stated it was not included in this case, but later Mr. Travis testified he sought the unification of this route, in this proceeding. Since protestants have evidently relied upon counsel's statement, we shall not determine the existence of this right nor pass upon the question of its consolidation, our decision herein being without prejudice to the adjudication of these facts.

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Oakland-Napa Route.

By Decision No. 8466, Application No. 5758, dated December 20, 1920, Western Motor Transport Company was granted a passenger operative right between Oakland and Healdsburg via Napa and Santa Rosa, subject to certain restrictions as to local traffic. Western Motor Transport Company, by Decision No. 8994, Application No. 6775, dated May 21, 1921, was authorized to transfer to A. Dunham that portion of such operative right between Napa and Santa Rosa, and to J. F. Birch, that portion between Santa Rosa and Healdsburg. Subsequently both Applications Nos. 5758 and 6775 were reopened by an order to show cause, raising the issue of the propriety of the transfers of part of an operative right between Oakland and Healdsburg, in view of the alleged fact that the original certificate (Dec. No. 8466) was granted upon a showing of public necessity for a through service. The matter was heard, but has not been determined. We shall not retry that issue here, but any order made herein will be without prejudice to the determination of pending proceedings affecting this operative right.

Operation of Miller Lines.

It is charged that applicant procured the consolidation of the Miller Lines (Decision No. 14886, 26 C. R. C. 421) upon a showing that public necessity required the operation of through service via Tracy, among other points, but that shortly after the decision applicant discontinued this through service and compelled passengers to change at Tracy. In this connection applicant's good faith is questioned, particularly by protestant, San Francisco-Sierra Motor Coach Lines. In justification of applicant's conduct, Mr. Travis testified that the through service via Tracy proved unsatisfactory, consequently it was abandoned by consent of the Commission. Under the circumstances we shall not reexamine the matter here.

Escalon-Manteca Route.

Although testimony was introduced regarding the desirability and need for through service over the proposed cut-off via Escalon and Manteca, which would provide a shorter route from Yosemite Transit points than the present service via Stockton, applicant withdrew that feature from the proposed consolidation, in view of the fact that Application No. 10913, wherein the Manteca-Escalon operative right was sought, had not been decided when this case was submitted. Subsequently, on January 18, 1927, a certificate for this service was granted by Decision No. 17912, in Applications Nos. 10684, 10913 and consolidated cases. However, under the circumstances, the consolidation of this route cannot be considered in the instant proceeding.

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Protests.

Some of the testimony offered by protestants was directed to the general consolidation rather than the special features which have been discussed.

Protestant Central California Traction Co., an electric railroad operating eight trains daily each way between Stockton and Sacramento, and twenty-one trains daily each way between Stockton and Lodi, through its auditor of freight and passenger accounts, Mr. F. L. Carsner, introduced exhibits showing the local commuters and interline passengers handled in each direction during 1923 and 1924 and from January to August, inclusive, 1925. We have summarized below the information shown in these statements:

Stockton to Sacramento	*Local Passengers*	*Interline Passengers*	*Commute Books*
1923	20,584	992	2 (30 ride)
1924	13,885	685	-
1925 (Jan.-Aug. inc.)	8,097	499	-
Sacramento to Stockton			
1923	25,968	1,148	
1924	18,423	963	
1925 (Jan.-Aug. inc.)	9,542	331	1

This indicates, as the witness testified, a steady decline in passenger traffic. Mr. Carsner stated he believed the restoration of applicant's loop service via Oakland, Vallejo, Sacramento, Stockton and back to Oakland, which was discontinued when through service via Vallejo was dissolved, would not affect protestant. Apparently he was under the impression that applicant was now prohibited from operating through stages from Sacramento to Oakland via Stockton, it being his belief that a transfer must be made at Stockton, and his company's protest was directed principally toward ths linking up of these supposedly separate operative rights. However, as it is clear that a unified service was established between those points by Decisions Nos. 11881 and 14886, *supra*, it is evident that this protestant has misunderstood the scope of the application and the issues involved.

Protestant Monticello Steamship Co. introduced no testimony, but expressed its position through C. F. Hatch, its secretary and treasurer. It objects principally to applicant's failure to meet its San Francisco steamers at the Vallejo dock, stating such a service had previously been maintained but had by degrees been discontinued. Applicant stated it proposes to operate connecting schedules. However, there is no testimony bearing upon this situation, one way or the other.

On behalf of protestant, San Francisco, Napa and Calistoga Railway, its vice president and general manager, C. E. Brown, introduced cost, operating and traffic statistics designed to show the decrease in passen-

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ger traffic due, so the witness testified, to competition with privately owned automobiles and with applicant in the operation of its Napa-Vallejo-Oakland line.

The following statement shows passengers carried between 1915 and 1925, inclusive:

Year	*Number passengers carried*	*Percentage of passengers carried in 1915*
1915	620,558	100.0
1916	608,021	98.0
1917	697,016	112.3
1918	830,022	133.7
1919	690,732	111.3
1920	660,986	106.5
1921	593,230	95.6
1922	454,085	73.2
1923	397,735	64.1
1924	339,884	54.8
1925	310,069	49.9

From this it appears that the traffic has diminished quite sharply during recent years. It was also shown that a substantial portion of passengers carried travel to and from Napa.

Protestant's objection, so Mr. Brown testified, was directed largely against applicant's service between Napa and Oakland, as to which protestant had a complaint pending before the Commission. Through service between San Francisco and Napa was, as we have stated, waived by applicant at the hearing.

Since applicant's right to operate between Oakland and Napa is still the subject of litigation, any order herein respecting such right will be made without prejudice to the final determination of these proceedings.

Protestant San Francisco-Sierra Motor Coach Lines offered no testimony, but submitted its proposed time schedules and tariff of fares. It challenged generally applicant's right to consolidate, its counsel, participating actively in the trial, dealing for the most part with alleged departures from applicant's operative rights which were discussed in its brief and have been dealt with previously in this opinion. Since the submission of this case, this protestant's application for a certificate to conduct a through passenger stage service between San Francisco and San Francisco Recreation Camp via Stockton, has been denied. (Decision No. 17912, Application No. 10684, etc.)

From the record we are convinced that applicant has satisfactorily established the need for a consolidation, both in superior service to the public and in resulting economies of operation—a showing which has not been overcome by protestants. Much was said in argument about the quantum of proof required to establish the need for a consolidation, and as to the burden of proof. Applicant contends that the rule established in the Western Motor Transport case (20 C. R. C.

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1038) to the effect that a separate certificate must be obtained for through service over separate lines owned by the same operator, is a harsh doctrine in derogation of the statute, and consequently that decision should be strictly construed. To this interpretation of that decision we can not subscribe. The rule there announced, we believe, is founded upon a reasonable interpretation of the statute, which clearly contemplates that operations over an entire system are necessarily distinct from operations over its constituent lines. The reasonableness of this rule is aptly illustrated by the situation presented in this proceeding. Who, for example, could fairly contend that the public need for through service over all of an extensive system such as that of applicant, does not differ substantially from the need for local service between Stockton and San Francisco, or Oakland and Rodeo? Each of the constituent operative rights was granted upon a showing confined to that route alone; necessarily, no one could foresee the possible combinations which might ultimately develop. When they have passed into one ownership, the need for service over the entire network of lines presents an entirely diefferent problem, and if one of the units of applicant's system had instead passed into the hands of another company, such as the Pickwick Stages System, would not an entirely different question, considered as a whole and in its details, have arisen as to the need for through service? We believe that the Western Motor Transport decision is founded in law, and also in sound policy, which requires that there be proper regulation of the development of these large stage systems. Any other rule would destroy the safeguards thrown around adequate service and security of investment by our former decisions. We hold that an application such as this must rest upon a satisfactory showing of public convenience and necessity, as in the case of any other application for the establishment of an automobile stage line. Whether or not such a showing has been made is a question of fact, depending upon the circumstances of each case.

Counsel for protestant Southern Pacific Company contended that that protestant was under no obligation to produce certain passenger travel statistics because applicant had failed to show a need for the particular service. It is true, of course, that before a certificate can be granted, the burden rests affirmatively upon an applicant in a proceeding such as this to establish by a preponderance of the evidence that there is a need for the proposed service or, in the words of the statute, that it is required by "public convenience and necessity." The protestant may overcome such a showing if he can.

We hold, upon the facts, that applicant is entitled to the consolidation sought. This will include all of applicant's lines embraced in this proceeding, except those above mentioned, specifically excluded, and

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the applications of Star Auto Stage Association (Application No. 6114) and Western Motor Transport Co. (Application No. 5928), referred to in the application, which were not decided prior to submission of this case.

We see no objection to the proposed passenger fares, rules and regulations, so therefore applicant will be permitted to adopt them and put them into effect throughout its system. The proposed time schedules are also approved. But because of the time which has elapsed since the opening of the hearing, it is possible amendments may be necessary, consequently applicant will be allowed to submit proposed schedules to meet present conditions, which, if approved, may be made effective at once.

Our findings, in detail, follow:

Upon full consideration of the evidence in the above entitled proceeding, we are of the opinion and hereby find as facts:

I.

That pubic convenience and necessity require the operation by California Transit Company, a corporation, of an automobile stage service for the transportation of passengers and baggage, over the following routes:

(a) Between Rodeo and Vallejo, and between Crockett and Vallejo, via Shortway and Morrow Cove and ferryboats operating between said points in connection with its consolidated authorizations herein authorized.

(b) Between Oakland and Sacramento and intermediate points now served via Vallejo by means of a direct through service without interchange or transfer of passengers or baggage at Vallejo, or any other intermediate point.

II.

That public convenience and necessity require the operation by California Transit Company, a corporation, of an automobile stage service for the transportation of passengers, baggage and express (subject to a weight limit of 100 pounds per package), over the following route:

Between San Francisco and Oakland, not as a separate operative right, but in connection with and as a part of applicant's unified and consolidated operations as herein authorized; and in this respect, between San Francisco and all points on applicant's system as consolidated herein, except over the following routes, to wit: Between San Francisco or Oakland, on the one hand, and Napa, Martinez, Vallejo or Sacramento, respectively, or intermediate points, on the other hand; *provided*, that no passengers, baggage or express shall be transported to or from San Francisco, originating at or destined to points west of Santa Rita.

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III.

That public convenience and necessity require the consolidation and unification of the operative rights of said California Transit Company and the operation as one unified system of through service for the transportation of passengers and baggage between all the termini and intermediate points served by and along its present several routes more specifically described in the following order:

IV.

That said California Transit Company does not possess the right to transport express or property over or along the following routes, to wit:

(a) Between Oakland and Martinez and intermediate points.

(b) Between Oakland and Napa and intermediate points.

(c) Between Oakland and Vallejo and intermediate points.

(d) Between Vallejo and Sacramento and intermediate points.

V.

That public convenience and necessity require the consolidation and unification of the operative rights of said California Transit Company and the operation as one unified system of through service for the transportation of express upon its passenger cars only (subject to uniform maximum weight limit of 100 pounds per package, applicable throughout all portions of its system where express transportation is authorized), between all the termini and intermediate points served by and along its present several routes, more specifically described in the following order, except over and along the routes and between the points specifically mentioned in the preceding finding.

VI.

That public convenience and necessity require the transportation by said California Transit Company of passengers, baggage and express (where express transportation is herein authorized), over and along its present several routes as consolidated herein under and subject to uniform rules and regulations applicable throughout the system, and that the proposed rules and regulations governing the transportation of passengers, baggage and express submitted by said applicant in evidence are just and reasonable and should be established, provided that nothing herein contained shall be construed to authorize applicant to transport express over and along the routes mentioned in finding IV, hereof.

VII.

That the rates and fares proposed to be established by said applicant for the transportation of passengers, baggage and express in connec-

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tion with the consolidation of its lines, including the proposed fare of 25 cents per passenger for the transportation of passengers between Oakland and San Francisco and the proposed zone basis for express rates, as hereinabove stated, are just and reasonable and should be established.

An order will be entered accordingly.

ORDER.

An application having been filed with the Railroad Commission, as indicated in the opinion which preceeds this order, public hearings having been held, the matter having been duly submitted, and the Commission being now fully advised and basing its order on the findings of fact which appear in the opinion preceding this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by California Transit Company, a corporation, of an automobile stage service for the transportation of passengers and baggage over the following routes:

(a) Between Rodeo and Vallejo, and between Crockett and Vallejo, via Shortway and Morrow Cove and ferryboats operating between said points in connection with its consolidated authorizations herein authorized.

(b) Between Oakland and Sacramento and intermediate points now served via Vallejo by means of a direct through service without interchange or transfer of passengers or baggage at Vallejo, or any other intermediate point.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the operation by California Transit Company, a corporation, of an automobile stage service for the transportation of passengers, baggage and express (subject to a weight limit of 100 pounds per package), over the following route:

Between San Francisco and Oakland, not as a separate operative right, but in connection with and as a part of applicant's unified and consolidated operations as herein authorized; and in this respect, between San Francisco and all points on applicant's system as consolidated herein, except over the following routes, to wit: Between San Francisco or Oakland, on the one hand, and Napa, Martinez, Vallejo or Sacramento, respectively, or intermediate points, on the other hand; *provided*, that no passengers, baggage or express shall be transported to or from San Francisco, originating at or destined to points west of Santa Rita.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted said California Transit Company

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for the establishment and operation of the service hereinabove described, subject to the condition hereafter set forth.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the consolidation and unification of the operative rights of said California Transit Company as one unified system of through service for the transportation of passengers and baggage between all the termini and intermediate points served by and along the present several routes, which routes are as follows:

Granted by Decision No. 10073; Application No. 7340, dated February 8, 1922 (21 C. R. C. 211).

(1) Between Rodeo and El Cerrito and intermediate points.

(2) Between El Cerrito and Oakland and intermediate points, excepting service locally between Richmond and Oakland and intermediate points.

(3) Between Oakland and Martinez and intermediate points, including Albany, Richmond Junction, San Pablo, Tank Farm, Pinole, Rodeo, Tormey, Crockett and Port Costa Junction.

(4) Between Oakland and Vallejo, excepting service locally between Oakland and Stege Junction, and including intermediate points, consisting of San Pablo, Tank Farm, Pinole, Rodeo, Tormey and Crockett.

(5) Between Sacramento and Vallejo, and intermediate points, including Davis, Dixon, Vacaville, Fairfield and Cordelia.

(6) Between Napa and Sacramento Junction.

(7) Between Oakland and Napa and intermediate points, excepting service locally between North Vallejo and Napa and intermediate points. (Subject to reservations set forth in the foregoing opinion.)

Rerouting permitted by Decision No. 15547, App. No. 11004, dated October 21, 1925.

Rerouting of all service between Vallejo and Sacramento via Suisun, so as to permit operations between Cordelia and Fairfield via Thomasson and Suisun, instead of via Rockville.

Granted by Decision No. 8150, dated September 25, 1920, and Decision No. 8231, dated October 11, 1920, in Application No. 5163.

(1) Between Stockton and Sacramento and intermediate points, including Five Mile House, Henderson, Woodbridge, Galt, Arno, McConnell and Elk Grove.

(2) Between Stockton and Sacramento and intermediate points, including French Camp, Manteca, Ripon and Salida.

(3) Between Stockton and Oakland and intermediate points, including Tracy, Altamont, Greenville, Livermore, Dublin and Hayward.

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(4) Between Modesto and Merced and intermediate points, including Ceres, Esmer, Keyes, Turlock, Delhi, Livingston, Arene, Atwater and Buhach.

(5) Between Stockton and San Jose and intermediate points, including French Camp, Banta, Tracy, Altamont, Livermore, Pleasanton, Sunol, Mission San Jose, Warm Springs and Milpitas.

Granted by Decision No. 11566, Application No. 7982, dated January 26, 1923 (22 C. R. C. 960).

Between San Francisco and Merced via Oakland, over the existing route between Oakland and Merced.

Granted and Consolidated by Decision No. 14881, Applications Nos. 10279 and 10687, dated May 2, 1925 (26 C. R. C. 406).

(1) Beween Fresno and Bakersfield via Malaga, Fowler, Selma, Kingsburg, Traver, Goshen, Visalia, Farmersville, Exeter, Lindsay, Strathmore, Porterville, Terra Bella, Ducor, Richgrove, Delano, McFarland, Famosa, Kimberlena, Lerdo and Seco.

(2) Between Fresno and Madera; Madera and Merced; Fresno and Bakersfield via Tulare; and Fresno and Kingsburg.

(3) Between Fresno and Kingsburg.

(4) Between Fresno and Selma.

(5) Between Fresno and Dinuba, via Fowler, Selma, Parlier and Reedley.

(6) Between Visalia and Dinuba via Yettam, Cutler, Orosi, and Sultana; Tulare and Porterville via Lindsay and Strathmore; and Tulare and Visalia via Mooney Grove.

(7) Between Sacramento and Stockton, Stockton and Modesto, Modesto and Merced and San Francisco, Oakland and Merced, such operations to include transportation of passengers and express between all of the termini and intermediate points served by and along such routes.

Granted and Consolidated by Decision No. 14886, on Applications Nos. 10679 and 10680, dated May 7, 1925 (26 C. R. C. 421).

(1) Between Fresno and Los Banos by way of Madera, Califa and Chowchilla and intermediate points.

(2) Between Fresno, Mendota, Firebaugh, Oxalis, Dos Palos, Los Banos, Volta, Gustine, Newman, Crows Landing, Patterson, Westley, Vernalis, Tracy, and Merced via Los Banos and intermediate points.

(3) Between points on the two routes above described and points on the lines of Valley Transit Company, transferred to California Transit Company by Decision No. 14881, hereinabove described.

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(4) Between Sacramento and Stockton, Stockton and San Jose, Stockton and Tracy, Stockton and Oakland, and San Francisco, Oakland and Merced as consolidated through routes.

Rerouting authorized by Decision No. 15547, in Application No. 11004, dated October 21, 1925.

Reroutes a portion of stage service between Oakland and Stockton via Pleasanton in either direction so that such stages shall operate between Santa Rita and Livermore directly through Pleasanton, serving Santa Rita, Pleasanton and Livermore, locally and in connection with other points on its lines.

Granted by Decision No. 16012, in Application No. 12524, dated February 16, 1926.

(1) Between Stockton and Groveland, Stockton and Sonora, and Sonora and Tuolumne and intermediate points over the following routes:

Over the Mariposa County road between Stockton and Valley Home; over the county road between Valley Home and Oakdale; over the state highway between Oakdale and Orange Blossom; over the county road between Orange Blossom and Knight's Ferry; over the state highway between Knight's Ferry and Chinese Camp via Keystone; over the county road and the state highway between Chinese Camp and Jamestown; and over the Big Oak Flat road between Chinese Camp and Groveland.

(2) Between Groveland and Carl Inn in the summer period.

(3) A through service between Stockton and Carl Inn and intermediate points via the existing route through Groveland, as a consolidation of the two routes previously described.

Granted Herein.

(1) Between Rodeo and Vallejo and between Crockett and Vallejo, via Shortway and Morrow Cove, and ferry boats operating between said points, in connection with applicant's consolidated operations.

(2) Between Oakland and Sacramento, and intermediate points now served, via Vallejo.

(3) Between San Francisco and Oakland, in connection with applicant's consolidated operations, and subject to the exceptions hereinabove set forth.

Provided, however:

(1) That the consolidation of the route between Oakland and Napa shall be without prejudice to the determination of pending proceedings affecting said operative right;

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(2) That the route between Pinole and Martinez, via Franklin Canyon, is excluded from this consolidation, this decision being made entirely without prejudice as to the determination of all questions affecting said route;

(3) That this decision excludes all matters affected by Applications Nos. 5928, 6114 and 10913, and the so-called Morse Lines leased to applicant pursuant to Decision No. 14917, Application No. 11004, being rendered without prejudice to the future consolidation of any operative rights granted therein.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the consolidation and unification of the operative rights of said California Transit Company as one unified system of through service for the transportation of express upon its passenger cars only (subject to a uniform maximum weight limit of 100 pounds per package applicable throughout the system except where express rights do not exist), between all the termini and intermediate points served by and along its present several routes, in this order last hereinabove described, except that no right to transport express is herein granted over or along the following routes, either as separate routes or as part of applicant's consolidated system, to wit:

(a) Between Oakland and Martinez and intermediate points;
(b) Between Oakland and Napa and intermediate points;
(c) Between Oakland and Vallejo and intermediate points;
(d) Between Vallejo and Sacramento and intermediate points.

It is hereby further ordered, that a certificate of public convenience and necessity be and the same is hereby granted to said California Transit Company consolidating and unifying the operating rights and routes hereinabove described, permitting said California Transit Company to operate the same as one unified system and authorizing the operation of through service for the transportation of passengers and baggage between all termini and intermediate points served by and along its present several routes or operative rights hereinabove described, and authorizing the operation of through service for the transportation of express between all the termini and intermediate points served by and along its present several routes or operative rights hereinabove described, except the following, to wit:

(a) Between Oakland and Martinez and intermediate points;
(b) Between Oakland and Napa and intermediate points;
(c) Between Oakland and Vallejo and intermediate points;
(d) Between Vallejo and Sacramento and intermediate points, subject to the conditions hereinafter set forth.

It is hereby further ordered, that said California Transit Company be and it is hereby authorized to establish and put into effect immedi-

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ately the rates, fares, rules and regulations applicable to and governing the transportation of passengers, baggage and express over and throughout its consolidated system (being limited as to express as hereinabove set forth), which were proposed herein by said applicant, including a fare of 25 cents per passenger for the transportation of passengers between Oakland and San Francisco and the proposed zone basis for express rates as hereinabove authorized.

It is hereby further ordered, that in all other respects said application be and it is hereby dismissed without prejudice.

The authority herein granted is subject to the following conditions:

1. That the transportation of express matter within the limit of 100 pounds herein fixed shall be limited to transportation on passenger cars used in the operations of the California Transit Company over the unified system as herein authorized.

2. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from the date hereof.

3. Applicant shall file, in duplicate, within a period of not to exceed thirty (30) days from the date hereof tariff of rates, fares and time schedules, such tariffs of rates, fares and time schedules to be similar to those submitted by applicant at the hearing of this application, or rates, fares and time schedules satisfactory to the Railroad Commission; and shall commence operation of said service within a period of not to exceed thirty (30) days from the date hereof.

4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this twenty-eighth day of March, 1927.

DECISION No. 18108.

IN THE MATTER OF THE APPLICATION OF SAN DIEGUITO WATER COMPANY, A CORPORATION, AND CITY OF SAN DIEGO, A MUNICIPAL CORPORATION, FOR THE APPROVAL OF A LEASE COVERING CERTAIN PROPERTIES.

Application No. 13520.

Decided March 28, 1927.

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TRANSFER—WATER UTILITY—TO LEASE AND SELL.—Agreement for lease and sale of properties of San Dieguito Water Company to City of San Diego, approved.

O'Melveny, Millikin, Tuller and McNeal, by *William W. Clary*, for Applicant, San Dieguito Water Corporation.
S. S. Higgins, for City of San Diego, Applicant.
W. A. Sloane, for San Dieguito Irrigation District.
C. M. Monroe, for the Santa Fe Irrigation District.

LOUTTIT, *Commissioner*.

OPINION.

In this application San Dieguito Water Company and city of San Diego asked the Commission to ratify and approve a certain agreement of lease and option to purchase (Exhibit "A" herein) covering certain water properties in said agreement referred to, entered into between them on October 5, 1925, and to authorize them to execute any further instruments necessary to assure the validity of this agreement.

A public hearing was held at San Diego after due notice had been given so that all interested parties might appear and be heard.

The evidence submitted shows that the water properties in question are at the present time essential to supply the inhabitants of the city of San Diego with water for domestic purposes. In view of the present demand of the city for water, of its steady growth in the past, and its contemplated growth in the future, it is evident that public interest was served by the leasing of these properties to the city as provided for in said agreement.

Prior to the making of said lease the San Dieguito Water Company had entered into contracts for the furnishing of water to Santa Fe Irrigation District and Del Mar Water, Light and Power Company, respectively; and had assumed the obligations of Santa Fe Land Improvement Company under another contract which had previously been entered into between Santa Fe Land Improvement Company and San Dieguito Irrigation District, which contract provided for the furnishing of water by said company to said district. All said contracts were attached to said agreement of lease. Under the terms of said lease the city of San Diego is obliged to assume and perform fully all of the obligations of San Dieguito Water Company arising under or out of any of said contracts and also all of the obligations of Santa Fe Land Improvement Company arising under or out of said contract with San Dieguito Irrigation District. It further appears that the city of San Diego by a supplemental contract (Exhibit "B" herein) with the San Dieguito Water Company and San Dieguito Irrigation District entered into March 12, 1926, guaranteed to the San Dieguito Irrigation District a perpetual water supply from Lake Hodges Water System. None of these consumers interpose any objection to this application.

Both applicants allege that said agreement of lease and option was originally entered into under the belief that San Dieguito Water Com-

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pany was not a public utility and that the approval of this Commission thereto was not necessary. Acting under this belief these parties entered into said agreement and pursuant to it all of the water properties described therein were turned over to the city of San Diego on December 1, 1925, and said city has been operating said properties and supplying water to all the former consumers of the San Dieguito Water Company since that date. Pursuant to said agreement the city of San Diego voted bonds in the amount of $500,000, said bonds were sold and said amount was paid to San Dieguito Water Company for the option to purchase said property in accordance with the terms of the agreement.

Since December 1, 1925, San Dieguito Water Company has not had possession or control of any of said water properties, or any other water properties, and has not been engaged in selling water to any persons or corporations. It is clear, therefore, that San Dieguito Water Company did, on December 1, 1925, abandon all service of water of every kind and character and since that date has never resumed any such service.

Neither of the applicants admit that San Dieguito Water Company is now or ever has been a public utility. Applicants join in this application for the purpose of removing any question which might later be raised concerning the validity of said agreement of lease and option and of the transfer to the city of possession of said property. Since these properties now constitute a vital part of the water supply of the city of San Diego it is essential from the standpoint of public interest that any possible question that might be raised as to the validity of said agreement of lease and option be removed.

The Commission has assumed jurisdiction over the application herein for the reason that by virtue of the above mentioned contract with Del Mar Water, Light and Power Company, and by virtue of certain water service rendered to the city of San Diego, applicant San Dieguito Water Company appears to have operated as a public utility as the term is defined in section 2 (*dd*) of the Public Utilities Act. (See Railroad Commission Decision No. 17793, Case 2059, *Smith Realty Co.* vs. *San Dieguito W. Co.*)

The following form of order is submitted.

ORDER.

Application having been made to this Commission as entitled above, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed in the matter;

It is hereby ordered, that that certain agreement of lease and option to purchase, entered into by and between San Dieguito Water Com-

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pany and city of San Diego, applicants hereto, dated October 5, 1925, copy of which was filed with the application herein, and that the transfer of possession of the properties described therein to said city of San Diego, made December 1, 1925, pursuant to the terms of said lease, be and the same are hereby ratified and approved.

It is hereby further ordered, that San Dieguito Water Company and city of San Diego be and they are hereby authorized to make and execute such further and other instruments of confirmation of said agreement as the parties may deem necessary or appropriate to vest in said city of San Diego the leasehold estate described in said agreement of lease and option and all rights thereunder and make said agreement valid and effective in respect of all of its covenants and provisions; and copies of any such instrument or instruments shall be filed with this Commission within twenty days after the same are executed.

It is hereby further ordered, that that certain agreement entered into by and between San Dieguito Water Company, city of San Diego and San Dieguito Irrigation District, dated March 12, 1926, be and the same is hereby ratified and approved; that said parties may execute such other and further instruments as may be deemed necessary or appropriate to make said agreement valid and effective in respect of all its covenants and provisions and to vest in said San Dieguito Irrigation District, all rights under said agreement; and the copies of any such instrument or instruments shall be filed with this Commission within twenty days after the same are executed.

It is hereby found as a fact that San Dieguito Water Company did, on December 1, 1925, entirely abandon the sale and delivery of water and that since that date said company has never carried on any sale or delivery of water or engaged in the service of water or in the business of selling water to any person, firm or corporation and said abandonment is hereby approved, authorized, ratified and confirmed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-eighth day of March, 1927.

DECISION NO. 18114.

IN THE MATTER OF THE APPLICATION OF BOLINAS WATER AND POWER COMPANY FOR PERMISSION TO SELL PROPERTY TO BOLINAS PUBLIC UTILITY DISTRICT.

Application No. 13465.

Decided March 28, 1927.

TRANSFER—WATER UTILITY—TO SELL.—Application granted.

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Sherman Smith and *Mrs. Sherman Smith*, representing Bolinas Water and Power Company.
J. S. Philbrook, representing the Bolinas Public Utility District.

BY THE COMMISSION.

OPINION.

Bolinas Water and Power Company, a corporation, which owns and operates a public utility water system supplying water for domestic purposes to consumers in Bolinas, Marin County, has made application to this Commission for authority to transfer its water system to Bolinas Public Utility District, which joins in the application, and thereafter be relieved of its public utility obligations.

A public hearing in this proceeding was held before Examiner Gannon at Bolinas February 25, 1927, after all interested parties had been duly notified and given an opportunity to appear and be heard.

From the evidence it appears that Bolinas Water and Power Company at the present time serves water to about eighty consumers in Bolinas. The water supply, which is obtained by pumping from wells, has now become inadequate to provide properly for the increasing demands of the growing community. The development of additional water was too great a financial burden for the present company and for this reason a public utility water district has been formed and desires to acquire the present company's water system with the exception of its wells and pumping equipment. The district has obtained a new source of supply on a creek called the Rio Honda and has already installed a transmission line which will deliver the water by gravity to the distribution system in Bolinas. The consideration for this transfer is $2,009.

No one protested the granting of this application, and as all of the present consumers of this utility can be served by the district with a better and more adequate supply of water we are of the opinion that the application should be granted.

ORDER.

Bolinas Water and Power Company, a corporation, having made application to this Commission for authority to transfer its public utility water system in Bolinas to Bolinas Public Utility District, a public corporation, which joins in the application, a public hearing having been held thereon, the matter having been submitted, and the Commission now being fully informed in the matter;

It is hereby ordered, that Bolinas Water and Power Company, a corporation, be and it is hereby authorized to transfer to Bolinas Public Utility District, a public corporation, its public utility water system as more particularly described in Exhibit "C" attached to the application herein and made a part hereof, and thereafter stand relieved of all public utility obligations and liabilities in connection therewith, upon the following conditions:

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1. The transfer herein authorized shall apply only to such transfer as shall have been completed on or before the first day of June, 1927, and a certified copy of the final instrument of conveyance shall be filed with this Commission by the Bolinas Water and Power Company, a corporation, within thirty days of the date on which it is executed.

2. Within ten days of the date upon which Bolinas Water and Power Company, a corporation, actually relinquishes control and possession of the property herein authorized to be transferred, it shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this twenty-eighth day of March, 1927.

DECISION No. 18115.

IN THE MATTER OF THE APPLICATION OF COACHELLA VALLEY HOME TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF A NOTE AND MORTGAGE.

Application No. 13574.

Decided March 28, 1927.

SECURITIES—NOTE—TO ISSUE.—Application granted.

Ernest Tricin, for Applicant.

BY THE COMMISSION.

OPINION.

In this application the Coachella Valley Home Telephone and Telegraph Company asks permission to issue a $10,000 note payable on or before three years after date with interest at the rate of 8 per cent per annum payable quarterly and to secure the payment of such note by the execution of a mortgage covering applicant's real property in the town of Thermal and its entire telephone plant and equipment.

Applicant owns and operates a telephone system serving the entire Coachella Valley including the towns of Thermal, Coachella and Indio. It serves this territory from a single central office switchboard located in the town of Thermal. Within the last two years applicant's business at Indio has increased to such an extent that it has become desirable to open another central office exchange in the town of Indio. It estimates the cost of such exchange at approximately $10,000. It is of record that applicant has purchased a switchboard, a lot where the exchange building will be located and has constructed a building thereon. It is believed that the new central office exchange will be com-

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pleted on or before May 1, 1927. Upon the completion of such exchange applicant will be in a position to give better service to residents in Indio than it is able to give with its present facilities.

As of December 31, 1926, Coachella Valley Home Telephone and Telegraph Company reports assets and liabilities as follows:

Assets.

Plant and equipment	$30,348 80
Other property	190 71
Cash	1,354 62
Notes receivable	66 97
Due from subscribers and agents	1,597 00
Material and supplies	488 00
Total assets	$33,996 20

Liabilities.

Capital stock	$13,685 00
Donations in aid of construction	110 37
Accounts payable	1,145 73
Accrued liabilities not due	2,392 00
Depreciation reserve	9,385 00
Other credit accounts	26 00
Surplus	7,251 50
Total liabilities	$33,996 20

For the year ending December 31, 1926, the company reports telephone operating revenues of $11,422.67, telephone operating expenses of $7,050.27 and net telephone operating revenue of 4,372.40. After deducting taxes from the net telephone operating revenue and other fixed charges, applicant had remaining a surplus of $3,365.65. Testimony shows that it is not possible at this time for applicant to furnish the Commission with a statement showing what increase in operating revenues it will realize from the construction of the central office exchange at Indio. It will be noted, however, that applicant's surplus earnings for 1926 were more than sufficient to pay the interest on the note which it asks permission to issue.

A copy of the note and mortgage has been filed in this proceeding and we find the same to be in satisfactory form.

ORDER.

Coachella Valley Home Telephone and Telegraph Company having asked permission to issue a $10,000 note and execute a mortgage, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted as herein provided;

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It is hereby ordered, that Coachella Valley Home Telephone and Telegraph Company be and it is hereby authorized to issue and sell at not less than par its promissory note in the sum of $10,000 payable on or before three years after date with interest at the rate of 8 per cent per annum, payable quarterly, and to execute a mortgage substantially in the same form as the mortgage filed in this proceeding for the purpose of securing the payment of such note, provided that the authority herein granted to execute such mortgage is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of such mortgage as to such other legal requirements to which said mortgage may be subject.

It is hereby further ordered, that Coachella Valley Home Telephone and Telegraph Company shall use the proceeds obtained from the sale of the note, the issue of which is herein authorized, to pay the cost of acquiring and constructing the central office exchange at the town of Indio referred to in this application.

It is hereby further ordered, that the authority herein granted will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

It is hereby further ordered, that Coachella Valley Home Telephone and Telegraph Company shall keep such record of the issue, sale and delivery of the note herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-eighth day of March, 1927.

DECISION No. 18116.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS OF PROPOSED MINIMUM CLEARANCES ON RAILROADS AND STREET RAILROADS WITH REFERENCE TO SIDE STRUCTURES, OVERHEAD STRUCTURES, PARALLEL TRACKS AND CROSSINGS OF RAILROADS, STREET RAILROADS, STREETS AND PUBLIC HIGHWAYS.

Case No. 2290.

Decided March 28, 1927.

COMMISSION'S INVESTIGATION—MINIMUM CLEARANCES—RAILROADS AND STREET RAILROADS.—After rehearing General Order 26-B is modified to be known as 26-C, to provide for a height to the running board of freight cars of 15 feet, one inch, instead of 15 feet; and also to increase the maximum over all width of freight cars from 10 feet, six inches, to 10 feet, eight inches. Subsection added to permit moving special equipment.

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BY THE COMMISSION.

OPINION ON ORAL ARGUMENT ON PETITION FOR REHEARING.

Petitions for rehearing in this matter were filed by Southern Pacific Company, Pacific Electric Railway Company, Peninsular Railway Company, Central California Traction Company, Visalia Electric Railroad Company, the Western Pacific Railroad Company, Tidewater Southern Railway Company, Sacramento Northern Railway, Los Angeles and Salt Lake Railroad Company, and The Atchison, Topeka and Santa Fe Railway Company, respectively, asking that sections 1 (*c*), 2 (*e*) and 4 (*e*) of General Order No. 26-B, as same was authorized by this Commission's Decision No. 17795, dated December 22, 1926 (Case No. 2290), be set aside. The Commission thereupon set the matter for oral argument on February 23d, at 10 a.m., before the Commission *en banc*, at which time counsel for the above petitioners, with the exception of The Atchison, Topeka and Santa Fe Railway Company, and counsel for the Brotherhood of Railroad Trainmen, appeared and presented oral argument.

From a consideration of the argument presented at that time, the Commission is of the opinion that nothing further would be gained by reopening the proceeding for the introduction of further evidence, and that its said Decision No. 17795 should be sustained in principle. It appears, however, that certain changes can properly be made in the order, which changes, it is believed, will tend to make the order more satisfactory to the carriers without sacrificing any important safety features as related to the clearances set forth.

The record shows that a slight modification in certain of the provisions of General Order No. 26-B can be made which will not greatly affect the safety of the public and the employees of the railroads and that such changes will permit the unrestricted operation of practically all freight cars now in operation. It therefore appears that the height to running board of freight cars, as shown in section 1, subsection (*c*), may reasonably be changed from fifteen (15) feet to fifteen (15) feet one (1) inch; also that the maximum over all width of freight cars, as shown in section 2, subsection (*e*), may reasonably be changed from ten (10) feet six (6) inches to ten (10) feet eight (8) inches.

A subsection under section 12, we believe, should be added, which will permit the movement of equipment having larger dimensions than specified herein, provided adequate precautions are taken. This will permit the movement of special equipment from time to time without a change of the carrier's clearance requirements. It appears that the above changes should be made in the form of a new general order to be designated as Commission's General Order No. 26-C.

With reference to the joint petition of the Western Pacific Railroad Company, Tidewater Southern Railway Company and Sacramento

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Northern Railway, filed December 31, 1926, in which those carriers sought to be relieved from certain clearance requirements, as provided in General Order No. 26-B, it appears that this order, as modified, will remove the necessity for the exemptions sought, and that petition will therefore be denied without prejudice.

ORDER.

Petitions having been filed for rehearing of our Decision No. 17795, in the above entitled matter; argument on said petitions having been had before the Commission *en banc*, and the matter being now under submission and ready for decision; therefore

It is hereby found as a fact that the proposed rules and regulations establishing minimum clearance for railroads and street railroad tracks and structures adjacent thereto, as prescribed in this Commission's General Order No. 26-B, but with modifications as set forth in the above opinion, are reasonable, just and necessary for the public health and safety, and basing our order on the above finding of fact;

It is hereby ordered, that this Commission's order in Decision No. 17795, dated December 2, 1926, in Case No. 2290, be and it is hereby set aside and the following order substituted in its place:

It is hereby ordered, that all construction, reconstruction and operation of railroad and street railroad tracks, or structures adjacent thereto, coming within the jurisdiction of this Commission, on and after April 1, 1927, shall conform to "Regulations Governing Clearances on Railroads and Street Railroads with reference to side structures, overhead structures, parallel tracks and crossings of public roads, highways and streets" prescribed by the Railroad Commission of the State of California in its General Order No. 26-C.

It is hereby further ordered, that the petitions for rehearing filed by Southern Pacific Company, Pacific Electric Railway Company, Peninsular Railway Company, Central California Traction Company, Visalia Electric Railroad Company, the Western Pacific Railroad Company, Tidewater Southern Railway Company, Sacramento Northern Railway, Los Angeles and Salt Lake Railroad Company and The Atchison, Topeka and Santa Fe Railway Company, respectively, be and they are hereby denied; and

It is hereby further ordered, that application filed by the Western Pacific Railroad Company, Tidewater Southern Railway Company and Sacramento Northern Railway, on December 31, 1926, to be relieved of certain provisions of said General Order No. 26-B, relating sizes of equipment to the minimum clearances provided in said general order, be and it is hereby denied without prejudice.

The effective date of this order shall be April 1, 1927.

Dated at San Francisco, California, this twenty-eighth day of March, 1927.

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GENERAL ORDER No. 26-C.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

REGULATIONS GOVERNING CLEARANCES ON RAILROADS AND STREET RAILROADS WITH REFERENCE TO SIDE STRUCTURES, OVERHEAD STRUCTURES, PARALLEL TRACKS AND CROSSINGS OF PUBLIC ROADS, HIGHWAYS AND STREETS.

Issued under Authority of Public Utilities Act.

Approved March 28, 1927. Effective April 1, 1927.

It is hereby ordered by the Railroad Commission of the State of California that the minimum clearance requirements for railroads and street railroads hereinafter prescribed shall hereafter be observed in this state in all construction or reconstruction of tracks, or structures adjacent to tracks.

It is hereby further ordered that no railroad or street railroad corporation shall operate any cars, trains, motors, engines or other equipment over its own or other tracks, except as hereinafter provided, on which overheard or side clearances, or clearances between tracks, are less than the minimum herein prescribed, if such tracks, or structures adjacent to such tracks, were constructed or reconstructed subsequent to the effective date hereof.

RAILROADS AND STREET RAILROADS TRANSPORTING FREIGHT CARS.

1. OVERHEAD CLEARANCES.

(a) The minimum overhead clearance above the top of rail of railroad and street railroad tracks, which are used or proposed to be used, for transporting freight cars, for all overhead structures, except as hereinafter prescribed, shall be twenty-two (22) feet.

(b) The overhead clearance above top of rail of such tracks located inside of entirely enclosed buildings may be reduced to eighteen (18) feet, provided that this clearance shall apply only to tracks terminating within the building, and further provided, that when an overhead clearance of less than twenty-two (22) feet is established on tracks inside such entirely enclosed building, all cars, trains, motors, engines or other equipment shall be brought to a stop before entering such enclosed building, the conditions provided to require such stop to be approved by the Commission.

(c) Overhead clearances authorized in this section are applicable only to tracks on which freight cars having a height to running board of fifteen (15) feet one (1) inch or less are transported. On tracks over which freight cars of greater height are transported or proposed to be transported, minimum overhead clearances shall be increased by an amount not less than such additional height.

2. SIDE CLEARANCES.

(a) Minimum side clearances from center line of tangent standard gauge railroad and street railroad tracks, which are used or proposed to be used for transporting freight cars, except as hereinafter prescribed, shall be as shown below:

Item.	*Description.*	*Minimum side clearance from center line of track.*
1.	All structures, except those specifically mentioned below	8′ 6″
	NOTE.—It is recommended that posts, pipes, warning signs and other small obstructions, where practicable, have a clearing of ten (10) feet from center line of track.	
2.	Platforms:	
	A. Eight (8) inches or less above top of rail	4′ 8″
	B. One (1) foot nine (9) inches or less above top of rail	5′ 6″
	C. Four (4) feet or less above top of rail	7′ 3″
	D. Four (4) feet six (6) inches or less above top of rail when used principally for loading or unloading refrigerator cars	8′ 0″
	NOTE.—Stepped platforms combining two or more of the above platform clearances not permitted. Existing platforms heretofore lawfully constructed in compliance with the clearance in effect at the time of construction may be extended at the existing clearance, provided that such clearance shall not be less than six (6) feet six (6) inches from the center line of track.	
3.	Poles:	
	A. Poles supporting trolley contact conductors supplying motive power to track affected, if of bracket construction, on either single or double main track	8′ 0″
	B. Poles supporting trolley contact conductors supplying motive power to track affected, for all types of construction (other than bracket construction) adjacent to main tracks, and for all types of construction (including bracket construction) adjacent to all tracks other than main tracks	8′ 6″
	C. All other poles	8′ 6″
4.	Through bridges supporting track affected and tunnels	8′ 0″

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5. Block signals and switch stands:

A. Switch boxes, switch-operating mechanisms and accessories necessary for the control and operation of signals and interlockers projecting four (4) inches or less above the top of rail	3′ 0″
B. Block signals and switch stands three (3) feet or less above top of rail and located between tracks where not practicable to provide clearances otherwise prescribed in this order	6′ 0″
C. All other block signals and switch stands	8′ 6″

NOTE.—In order to bring switch stand targets into clear vision where pole lines are or have been constructed at legal clearance on railroads operated by overhead trolley contact the above clearance as applied to switch stands may be reduced to seven (7) feet six (6) inches.

6. Water columns and oil columns	8′ 0″
7. Through bridges, hand rails, water barrels and refuge platforms on bridges and trestles, water columns, oil columns, block signals, cattle guards and cattle chutes, or portions thereof, four (4) feet or less above top of rail may have clearances decreased to the extent defined by a line extending diagonally upward from a point level with the top of rail and five (5) feet distant laterally from center line of track to a point four (4) feet above top of rail and eight (8) feet distant laterally from center line of track; provided, however, that the minimum clearance for such hand rails shall be seven (7) feet six (6) inches and the minimum clearance for fences of cattle guards shall be six (6) feet nine (9) inches.	
8. All other objects and articles	8′ 6″

(b) All minimum side clearances prescribed in this section are for tangent track. In general, all structures adjacent to curved track shall have a minimum side clearance one (1) foot greater than the equivalent minimum side clearance required for tangent track. Where space is limited, the minimum side clearance for structures adjacent to tracks of not over twelve (12) degree curvature shall be the same as for tangent track, but if over twelve (12) degree curvature, one-quarter (¼) inch shall be added to the equivalent minimum side clearance required for tangent track for each degree of the curve. Where track contains superelevation, minimum side clearances shall be increased as necessary to give the equivalent clearances based on tangent track.

(c) The center line of any track constructed in and along a public street shall be at least ten (10) feet from the property line of said public street, or if the street has a lawfully established curb line, the track may be laid with its center line less than ten (10) feet from said property line, provided the center line of track be at least ten (10) feet from the lawfully established curb line, and not otherwise laid in violation of any clearance prescribed in this order. The purpose of this section is to provide a space in each public street in which pole lines of public utilities may be erected and lawful clearance with railroad tracks maintained.

(d) Log rollways may be erected and maintained with impaired clearance when adjacent to track operated exclusively for logging purposes.

(e) Minimum side clearances authorized in this section are applicable only to tracks on which freight cars having a maximum overall width not greater than ten (10) feet eight (8) inches are transported. On tracks over which freight cars of greater width are transported or proposed to be transported, such minimum side clearances shall be increased not less than one-half of such additional width.

(f) For narrow gauge tracks, minimum side clearances from the side of widest cars operated shall be not less than the corresponding net clearance of a car of ten (10) feet eight (8) inches in width for the equivalent minimum clearances prescribed in this section for standard gauge track.

3. OVERHEAD AND SIDE CLEARANCES.

Minimum overhead and side clearances as prescribed herein in sections 1 and 2 of this order may be decreased to the extent defined by the half circumference of a circle having a radius of eight (8) feet six (6) inches and tangent to a horizontal line twenty-two (22) feet above top of rail at a point directly above the center line of track, provided, however, that for tunnels and through bridges, such radius may be eight (8) feet, and provided, further, that subsections 1 (c) and 2 (e) shall apply hereto.

4. CLEARANCE BETWEEN PARALLEL TRACKS.

(a) The minimum distance between the center lines of parallel standard gauge railroad and street railroad tracks, which are used or proposed to be used for transporting freight cars, shall be thirteen (13) feet, except as hereinafter prescribed.

(b) The center line of any standard gauge track, except a main track or a passing track, parallel and adjacent to a main track or a passing track, shall be at least fifteen (15) feet from the center line of the main track or passing track; provided, however, that where a passing track is adjacent to and at least fifteen (15) feet distant from a main track, any other track may be constructed adjacent to such passing track with clearance prescribed in subsection (a) hereof.

(c) The center line of any standard gauge ladder track, constructed parallel to any other track, shall have a clearance of not less than twenty (20) feet from the center line of such other track.

(d) Minimum clearance between center lines of two parallel team tracks may be reduced to eleven (11) feet six (6) inches, provided that clearances otherwise prescribed in this order are maintained on the opposite side of each track.

(e) Minimum distances between parallel tracks authorized in this section are applicable only to tracks on which equipment having a maximum overall width not

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in excess of eleven (11) feet is transported. On tracks over which equipment of greater width is transported or proposed to be transported, minimum distance between parallel tracks shall be increased not less than such increased width.

(f) For narrow gauge tracks, minimum distance between parallel tracks shall be not less than the corresponding net clearance of standard gauge equipment of eleven (11) feet in width for the equivalent clearances prescribed in this section.

5. OTHER ARTICLES ADJACENT TO TRACKS.

(a) No merchandise, material or other articles shall be placed either on the ground or on platforms adjacent to any tracks at a distance less than eight (8) feet six (6) inches from center line of track.

(b) A suitable line or other marker should be maintained on all platforms and at a distance of eight (8) feet six (6) inches from center line of track to indicate minimum clearance for merchandise, material and other articles placed thereon.

RAILROADS AND STREET RAILROADS NOT TRANSPORTING FREIGHT CARS.

6. OVERHEAD AND SIDE CLEARANCES.

(a) The minimum overhead clearance above the top of rails of railroads and street railroads which do not transport or propose to transport freight cars shall be fourteen (14) feet.

(b) Minimum side clearances of railroad and street railroad tracks which are not used or proposed to be used for transporting freight cars shall be thirty (30) inches from the side of the widest equipment operated, except that poles supporting trolley contact conductors between main line double tracks may be not less than twenty-four (24) inches from side of widest equipment operated.

(c) Minimum overhead and side clearances as prescribed in this section may be decreased to the extent defined by a line extending diagonally downward from a point fourteen (14) feet above the top of rail and four (4) feet distant laterally from the center line of track to a point eight (8) feet above the top of rail and distant laterally thirty (30) inches from the side of the widest equipment operated.

(d) Minimum side clearances as prescribed in this section may be decreased to the extent defined by a line extending diagonally upward from a point level with the top of rail and five (5) feet distant laterally from the center line of track at a point four (4) feet above the top of rail and distant laterally thirty (30) inches from the side of the widest equipment operated.

7. CLEARANCE BETWEEN PARALLEL TANGENT TRACKS.

(a) The minimum distance between the center lines of parallel tangent railroad and street railroad tracks which are not used or proposed to be used for transporting freight cars shall be sufficient to provide a clearance of twenty-four (24) inches between the sides of the widest cars transported.

8. EXCEPTIONS.

(a) Minimum clearances prescribed in section 6 and section 7 may be reduced at passenger loading platforms.

(b) Minimum clearances prescribed in section 6 and section 7 may be reduced for trackage located in subways and tunnels, or compartments thereof, which are used exclusively for railroad passenger traffic and which do not carry any other forms of traffic; provided, however, that the passenger equipment operated therein shall have all windows and other openings effectively barred.

(c) Nothing herein shall be construed as preventing the movement of material over railroad or street railroad tracks which are not used or proposed to be used for transporting freight cars which is necessary in the construction or operation of said railroad or street railroad system, nor in the movement of special work equipment used in the construction or operation of said system; provided, however, such operation shall be carried on in a safe manner.

PUBLIC ROADS, HIGHWAYS AND STREETS CROSSING UNDER OR OVER RAILROADS AND STREET RAILROADS.

9. PUBLIC ROADS, HIGHWAYS AND STREETS CROSSING UNDER TRACKS.

(a) Where railroads and street railroads cross above public roads, highways and streets, a minimum overhead clearance above the surface of such roads, highways or streets of fourteen (14) feet shall be provided.

(b) Where railroads and street railroads cross above public roads, highways and streets a minimum width of opening for such public roads, highways or streets of twenty (20) feet shall be provided where only one span is used to support the railroad or street railroad structure. Where two or more spans are used to support the railroad or street railroad structure a minimum width for each opening of twelve (12) feet shall be provided.

(c) When the public road, highway or street is occupied by one or more tracks, minimum clearance dimensions shall be determined by this Commission for the case under consideration.

10. PUBLIC ROADS, HIGHWAYS AND STREETS CROSSING OVER TRACKS OF RAILROADS AND STREET RAILROADS.

(a) Where public roads, highways and streets cross above railroad or street railroad tracks which are used or proposed to be used for transporting freight cars, minimum clearances as prescribed in sections 1, 2, 3 and 4 shall be provided.

(b) Where public roads, highways or streets cross over railroad or street railroad tracks which are not used or proposed to be used for transporting freight cars,

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minimum clearances as prescribed in sections 6, 7, and 8 shall be provided, except that a minimum overhead clearance of nineteen (19) feet above the top of rail shall be provided unless modified by the Commission.

GENERAL REQUIREMENTS.

11. ELECTRICAL CONSTRUCTION.

All clearances of electrical construction over, above, adjacent to, along or across railroads and street railroads shall conform to the requirements specified in General Order No. 64, or such other and further general or other orders as may be issued by the Commission superseding or amplifying same.

12. EXEMPTIONS.

(a) Equipment having greater dimensions than those stated in subsections 1 (c), 2 (e) and 4 (e) of this order may be moved over tracks on which overhead or side clearances or clearances between tracks, conform to the minimum gross clearances prescribed in this order or otherwise legal at the time such clearances were established, provided, however, that such equipment shall be moved in a manner or under conditions of adequate precaution and provided, further, that a statement of the general plan by which the carrier will undertake to exercise such precaution shall be filed by the carrier with and subject to the approval of the Commission.

(b) If, in a particular case, exemption from any of the requirements herein is desired, the Commission will consider the application of a carrier for such exemption when accompanied by a full statement of the conditions existing and the reasons why such exemption is asked. It is to be understood that any exemption so granted shall be limited to the particular case covered by the application.

The Commission reserves the right to modify any of the provisions of these rules in specific cases when, in the Commission's opinion, public interest would be served by so doing.

This order supersedes all regulations covering clearances of tracks, railroads and street railroads or structures to such tracks constructed or reconstructed subsequent to the effective date hereof, heretofore promulgated under title "General Order No. 26," "General Order No. 26-A," "General Order No. 26-B," and "Section 61 (a) of General Order No. 64."

This order shall be effective on and after April 1, 1927.

Approved and dated at San Francisco, California, this twenty-eighth day of March, 1927.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA,
By H. G. MATHEWSON, Secretary.

DECISION No. 18117.

WEST COAST PORCELAIN MANUFACTURERS, COPARTNERSHIP

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY.

Case No. 2320.

Decided March 28, 1927.

RATES—STEAM RAILROAD—CLAY—REPARATION.—Defendant carrier directed to refund to complainant all charges collected in excess of 22 cents per 100 pounds for the transportation of nine carloads of clay from Alberhill to Millbrae, during period February 14, 1925, to August 6, 1926.

BY THE COMMISSION.

OPINION.

The West Coast Porcelain Manufacturers, with offices at Millbrae, California, filed complaint February 23, 1927, alleging that the rate charged for transporting nine carloads of clay from Alberhill to Millbrae during the period from February 14, 1925, to August 6, 1926, inclusive, was unjustly discriminatory to the extent it exceeded a rate of 25 cents per 100 pounds.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

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Alberhill is located on a branch of the Atchison, Topeka and Santa Fe Railway in southern California and Millbrae is located on the Southern Pacific main line between San Francisco and San Jose. The shipments involved moved via the Atchison, Topeka and Santa Fe Railway to San Francisco, thence Southern Pacific to destination.

The applicable charges were based on a combination rate of 28½ cents, made 25 cents to San Francisco and 3½ cents beyond. The factor from San Francisco to Millbrae is not involved in this proceeding. The 25 cent rate is shown in Atchison, Topeka and Santa Fe Railway Tariffs 9788-I and 9788-J, C. R. C. Nos. 533 and 558. (The former tariff was cancelled by the latter, which became effective December 1, 1925.) Concurrently there was a rate of 22 cents published in the same tariffs applicable on brick in straight carloads or in mixed carloads with clay from and to the points involved.

Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record, we are of the opinion and find that the rate of 25 cents assessed for that portion of the haul from Alberhill to San Francisco was unjustly discriminatory to the extent it exceeded the rate of 22 cents applicable on clay and brick in mixed carloads. We further find that complainant paid and bore the charges on the shipments involved and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the defendant, The Atchison, Topeka and Santa Fe Railway Company, be and it is hereby authorized and directed to refund to complainant, West Coast Porcelain Manufacturers of Millbrae, California, all charges it may have collected in excess of 22 cents per 100 pounds for that portion of the haul from Alberhill to San Francisco, which rate is found to be reasonable for the transportation

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of the commodity involved in this proceeding and forwarded during the period from February 14, 1925, to August 6, 1926.

Dated at San Francisco, California, this twenty-eighth day of March, 1927.

DECISION No. 18119.

JOHN W. ANDERSON,

vs.

UNITED PARCEL SERVICE OF SAN FRANCISCO, A CORPORATION.

Case No. 2155.

Decided March 29, 1927.

COMMISSION'S JURISDICTION—CONTRACT CARRIER—ILLEGAL OPERATION.—Finding no proof that defendant had operated as a common carrier, and that the Commission has no jurisdiction over a private contract carrier, the complaint is dismissed.

Edward R. Solinsky, for Complainant.
Derlin and Brookman, by *Douglas Brookman*, for Defendant.

BY THE COMMISSION.

OPINION.

Complainant herein, John W. Anderson, a common carrier of property by automotive power, operating under authority of a prescriptive right established prior to May 1, 1917, seeks from this Commission an order requiring the United Parcel Service of San Francisco, a corporation, defendant herein, to cease and desist from delivering packages or other property at certain points in Marin County.

Complainant alleges that the defendant is conducting, without authority from this Commission, a common carrier business for the delivery of packages in Sausalito and other points in Marin County served by complainant, and that the business so conducted by said defendant, unless prohibited, will impose "irreparable damages" on complainant.

Defendant in its answer filed herein alleges in substance that it is engaged in the business of transporting property, but only as a private carrier performing service under private contract, and that none of its operations are subject to the jurisdiction of this Commission. Defendant further denies that any of the business conducted by it is of such character as to bring it within the jurisdiction of this Commission.

Upon the issues thus joined, a public hearing was conducted by Examiner Williams at San Francisco, the matter was duly submitted and now is ready for decision.

In support of the complaint, John W. Anderson, complainant, operating under the fictitious name of the Sausalito-Mill Valley-San Francisco Express, testified that since early in August, 1925, he had met

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vehicles bearing the name of the United Parcel Service traversing the roads in Marin County, and had noticed the delivery of packages at various points from these vehicles. Complainant testified that he had been engaged in the business of transporting property between Marin County and San Francisco for the past 15 years; that during the greater portion of this period he had made Marin County deliveries for San Francisco department stores (including Hale Bros.) and other firms; that on August 1, 1925, Hale Bros. transferred all their shipments to the defendant herein, and that since that time complainant had not enjoyed this business, which he estimated was worth $250 a month gross income to him. Complainant further testified as to the equipment which he owns and devotes to public service, also as to commodity rates provided for package service, and as to his ability to perform all the service necessary as a public carrier between San Francisco and the points now served by him in Marin County.

Complainant called to the stand J. E. Casey, president of the defendant corporation. Mr. Casey testified that the United Parcel Service sent its vehicles into Marin County to make deliveries of packages under private arrangement entered into August 1, 1925, with certain department stores in San Francisco. He further testified that the defendant corporation was organized as a private carrier and incorporated as such in the spring of 1925, for the particular purpose of entering into a joint contract with the City of Paris, O'Connor, Moffett and Company, Hale Bros. and the Emporium, all department stores in San Francisco, under which contract defendant assumes all the package delivery service for each and all, within and without the city of San Francisco. He further testified that this contract enabled each of the department stores to abandon its own package delivery service and rely upon the contractual arrangement made with defendant to supply such service. In support of this testimony, witness introduced, as defendant's Exhibit No. 1, the articles of incorporation of the United Parcel Service of San Francisco. Mr. Casey testified that the contractual relation with the four department stores named was such that the business could not, without great difficulty and the consent of all parties concerned, be enlarged to include any other service, and that the defendant did not hold itself out to carry packages for any others than those named in the contract, and had not performed any service for others.

Mr. Casey, recalled in behalf of defendant, testified that the additional business of Magnin and Company and Livingston's had been offered to defendant, but had been declined because of the private nature of the contract with the four department stores named and lack of their consent to an enlargement. Complainant was insistent that this contract be placed in evidence, but defendant was not required

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to produce it, for the reason that when the demand was made, complainant had produced no testimony in support of the material and essential allegations of his complaint, other than the physical presence in Marin County of vehicles bearing defendant's name, and delivery of packages therefrom.

Complainant herein seeks to enjoin the operation of defendant on the ground that defendant is performing, without valid authorization, common carrier service over routes and to points now served by complainant. In his testimony Mr. Casey explained in detail how service is given in the area affected, admitting that all deliveries are made for the four houses with which defendant has a contract in substantially the same manner as any common carrier would perform the service. He testified that the plant of this corporation and all its equipment, valued at more than $100,000, were constructed and established and are maintained solely for the purpose of performing package delivery service for the four stores named, and that such deliveries are made wherever required to be made, not only in Marin County but in other counties, as well as in the city of San Francisco. There is no dispute, therefore, as to the fact that defendant is actually making deliveries, as alleged by the complainant, in territory served by complainant as a common carrier. The question is whether complainant has shown affirmatively that the service thus performed by defendant is that of a common carrier and subject to regulation by this Commission.

Defendant's Exhibit No. 1 (its articles of incorporation) shows that defendant corporation was organized and incorporated for the purpose of conducting the business of a private carrier, and it is specifically provided in the second paragraph of said articles of incorporation that "in exercising any of the powers hereinabove enumerated, this corporation shall not have the power and shall not engage in the business of a common carrier."

After a careful examination of the evidence herein submitted, we cannot find that it has been affirmatively shown that defendant has, by any act, engaged in the business of a common carrier; on the contrary, we believe the testimony shows conclusively that the business heretofore done by this defendant has been done strictly in the performance of its contract with the four department stores named herein, and for them only. In view of the recent decision of the United States Supreme Court in the case of *Frost & Frost* vs. *California Railroad Commission*, holding that this Commission has jurisdiction only over common carriers (operating between fixed termini or over a regular route), and not over private carriers, and in view of the failure of the complainant to show any service of a common carrier nature performed by defendant, we must find that the questions of

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defendant are those of a private carrier, over which this Commission has no jurisdiction. Upon this finding an order will be entered dismissing the complaint for lack of jurisdiction.

ORDER.

This case, being at issue upon complaint and answer on file, having been duly heard and submitted, and the Railroad Commission being fully advised and having on the date hereof adopted and approved the foregoing findings of fact and conclusions thereon, which findings are hereby made a part hereof;

It is hereby ordered, that the complaint in this proceeding be and the same hereby is dismissed for lack of jurisdiction.

Dated at San Francisco, California, this twenty-ninth day of March, 1927.

DECISION No. 18122.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA, ON RELATION OF THE CALIFORNIA HIGHWAY COMMISSION, FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A STATE HIGHWAY CROSSING UNDER THE TRACKS OF THE SOUTHERN PACIFIC RAILROAD, AT MOSSDALE, SAN JOAQUIN COUNTY, CALIFORNIA.

Application No. 12836.

Decided March 30, 1927.

GRADE CROSSING—STEAM RAILROAD—SEPARATION OF GRADES—TO RECONSTRUCT.—California Highway Commission authorized to reconstruct subway under tracks of Southern Pacific Company near Mossdale, San Joaquin County, to eliminate unsafe and inadequate existing grade separation. Cost of subway, exclusive of paving highway outside the track—supporting structure, apportioned to the principals in a proportion of 50 per cent each.

DISSENTING OPINION.—Commissioners Brundige and Louttit dissent from the action of the Commission in apportioning the cost of new subway. They declare that the railroad company should be required only to pay one-half the cost of making adequate the existing undergrade. They hold it inequitable to require the railroad to pay one-half the total cost of the proposed entirely new and substitute undergrade crossing, to repair the error of the public authorities made many years ago in laying out the highway.

Paul F. Fratessa, for Applicant.
H. W. Hobbs, for Southern Pacific Company.

WHITSELL, *Commissioner.*

OPINION.

In the above entitled application the California Highway Commission asks authority to construct a state highway under the tracks of Southern Pacific Company near Mossdale in San Joaquin County, in order to eliminate an existing inadequate and unsafe grade separation where the highway passes under the railroad at that point. Applicant further asks that the Commission make its order apportioning the cost of the proposed grade separation between the interested parties.

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A public hearing was held in this matter at Stockton on October 8, 1926.

At the hearing both parties agreed that public convenience, necessity and safety justified the replacement of the existing underpass by constructing a new grade separation in the general vicinity of the location proposed by applicant in this proceeding. The parties, however, did not agree upon the precise plan by which such grade separation should be effected, nor was agreement reached as to the division of cost thereof.

The proposed grade separation, if constructed, will form a part of the state highway extending from the Bay District to the San Joaquin Valley by way of Hayward, Livermore and Tracy. This highway carries a large volume of through traffic which normally travels at high rates of speed. The rail line involved is Southern Pacific Company's double track main line between Tracy and Lathrop, over which high-speed passenger and freight trains are operated.

The evidence shows that the existing undergrade crossing is a hazardous one, due to restricted width of roadway between trestle bents and also due to the right-angle turn in the northerly approach about sixty to seventy feet from the trestle. It is also inconvenient to users of the highway by reason of restricted overhead clearance, which does not permit of the passage of loads which are more than twelve feet in height.

Applicant herein proposes to construct a new subway underneath the Southern Pacific Company's double track main line at a point approximately 800 feet east of the existing separation, which will provide a clear roadway width of thirty feet without sidewalks. The maximum approach grade on the proposed highway is 2.7 per cent. The new subway will, if constructed as proposed, require an entirely new alignment of the highway in this vicinity which will cross the railroad at an angle of about forty-five degrees and will eliminate three turns in the highway, two of which are dangerous right-angle turns located on the north side of the railroad in that portion of the existing highway which is to be abandoned. The present highway approaches are paved with oiled macadam fifteen feet in width, whereas the plan proposed shows a concrete pavement twenty feet in width. No change is contemplated in the existing alignment or grade of the railroad.

Southern Pacific Company does not object to the plan proposed by applicant but contends that it should not be assessed for more than one-half of the cost that would be incurred in building a substitute subway at the location of the existing timber underpass.

L. D. Packard, assistant bridge engineer for applicant, presented an estimate (Applicant's Exhibit No. 4) showing the cost of constructing the subway, itself, at the new location, as proposed in Appli-

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cant's Exhibit No. 1, to be $67,351, exclusive of the cost of right of way. Applicant's Exhibit No. 10 shows the total cost for the proposed project, exclusive of right of way, to be $98,746, of which $15,870 covers the cost of paving the highway line change outside of the limits of the new grade separation. The necessary right of way has already been secured and no suggestion was made by applicant that the cost of such right of way should be included in the cost of the project to be apportioned between the parties.

J. P. Dunnigan, assistant engineer, Southern Pacific Company, estimated the cost of a substitute subway to be located at the existing undergrade crossing, as shown on Southern Pacific Company's Exhibit No. 3-a, to be $34,283, while Mr. Packard estimated the cost of another plan of separation at this location at $28,980. Costs of rights of way, grading and paving, for a line change so as to improve the alignment of the highway on the north side of the track at this location, are omitted from both estimates.

The plan proposed by Southern Pacific Company places a curve of 130-foot radius in the north highway approach, which their own witness admitted was not a proper alignment for a trunk highway, as is the case here, and which would result in a hazard to vehicular traffic. In order to eliminate this curve, approximately nine acres of additional right of way would have to be procured by the Highway Commission and the change in highway alignment required would bring the total cost of the project under this plan to $76,695, exclusive of right of way. Another curve, with a radius of 206.7 feet, at the east end of the new highway bridge across the San Joaquin River, would be an inherent part of Southern Pacific Company's plan, which it would be impractical to eliminate even by the purchase of additional right of way and the construction of a new road.

It is contended by Southern Pacific Company that the cost of providing proper highway alignment in approaches to grade separations is not a proper portion of the cost of this grade separation project to be shared by the railroad and that only a portion of the cost of providing the subway, itself, should be assessed to the railroad. This appears to be a fair contention where the subway is so located that it will permit of proper highway alignment being made, but in this case the alignment of the highway on the north side of the railroad at the existing crossing does not lend itself to a favorable separation; therefore, this situation warrants special consideration.

The plan proposed by Southern Pacific Company, while improving clearance conditions at the point of crossing, would leave the highway with practically the same alignment, with its attendant hazards, as exists at the present structure, which is one of the major reasons for building a new separation. This Commission has often held that the

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location and design of grade separations should be such as to eliminate hazard and promote the convenience of the users of both the highway and railroad and give proper grade and alignment to each.

Exception was taken by Southern Pacific Company to certain items of cost in applicant's estimate as not being proper of inclusion in the costs to be divided between the interested parties. Upon review of the evidence in this proceeding, however, it is believed that the cost of constructing all of the items shown in Applicant's Exhibit No. 4, except the cost of paving the highway outside the track supporting structure, should be apportioned between applicant and Southern Pacific Company. Inasmuch as the paving within the subway itself forms an integral part of the subway construction in this particular instance, it should be included in the cost of the subway. The additional items shown in Applicant's Exhibit No. 10 for grading and paving, due to change in alignment of the highway outside the limits covered by Applicant's Exhibit No. 4, should be borne exclusively by applicant.

From a consideration of all of the evidence in this proceeding, it appears that in the interest of the public a subway should be built at the location proposed in Applicant's Exhibits Nos. 1 and 2 and it is concluded that the cost of constructing the subway and approaches thereto, the items of which are enumerated on Applicant's Exhibit No. 4, should be borne 50 per cent by applicant, and 50 per cent by Southern Pacific Company, except the cost of paving the highway outside the track supporting structure, which should be borne exclusively by applicant. The maintenance charges of this separation should be apportioned in accordance with an agreed plan to be filed with the Commission. In the event the parties can not agree upon such a plan, the Commission will prescribe the terms of this assessment in a subsequent order.

The following form of order is recommended:

ORDER.

The people of the State of California, on relation of the California Highway Commission, having made application to this Commission for an order authorizing the construction of a state highway under the tracks of Southern Pacific Company in the vicinity of Mossdale, county of San Joaquin, and for an order apportioning the cost thereof, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision; therefore

It is hereby found as a fact that the public convenience, necessity and safety require the construction of a state highway under the tracks of Southern Pacific Company at the point, and in the manner, shown on Applicant's Exhibits Nos. 1 and 2; therefore

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It is hereby ordered, that the people of the State of California, on relation of the California Highway Commision, and Southern Pacific Company be and they are hereby authorized to construct a subway carrying the highway under the tracks of Southern Pacific Company near Mossdale, San Joaquin County, at the location and in accordance with the plans shown on Applicant's Exhibits Nos. 1 and 2 in this proceeding, subject to the following conditions:

(1) Said undergrade crossing shall be constructed, as hereinafter provided, substantially in accordance with Applicant's Exhibits Nos. 1 and 2 and specifically in accordance with detailed plans which hereafter shall be submitted to the Commission for its approval after having been approved by applicant and by Southern Pacific Company.

(2) Said undergrade crossing shall be constructed with clearances conforming to the provisions of Commission's General Order No. 26-a.

(3) The cost of constructing said undergrade crossing shall be borne 50 per cent by applicant and 50 per cent by Southern Pacific Company, based upon the actual cost of the items enumerated in Applicant's Exhibit No. 4 in this proceeding, except the cost of paving the highway outside the track supporting structure which shall be borne exclusively by applicant. Applicant shall, within 120 days from the date hereof, file with this Commission, for its approval, a certified copy of an agreement between Southern Pacific Company and itself, covering the terms and manner of constructing this grade separation.

(4) The cost of maintenance of said undergrade crossing shall be borne in accordance with the terms of an agreement hereinafter to be entered into between applicant and Southern Pacific Company and filed with the Commission for its approval within 120 days from the date hereof, or, in the event of failure to reach such agreement within this time, said maintenance shall be borne in accordance with the terms of a supplemental order by this Commission.

(5) Applicant shall, within thirty days thereafter, notify this Commission, in writing, of the completion of the installation of said undergrade crossing.

(6) If said undergrade crossing shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(7) After the proposed undergrade crossing is constructed and opened to traffic, the existing undergrade crossing, located approximately 800 feet west thereof, shall be legally abandoned and effectively closed to public use and travel.

(8) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said undergrade crossing as to it may seem right and proper

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and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of March, 1927.

DISSENT.

I disagree with the majority opinion in its apportionment of costs between the state and the railroad.

For more than fifty years there has existed at this location separated grades for the railroad and the highway. For all of these years there has not been and there is not now any danger of collision between railroad trains and vehicular traffic, nor is there any possibility of interfering with or impeding vehicular traffic by reason of the operation of trains.

Admittedly, the existing undergrade crossing is inadequate. The tube is too narrow and is not deep enough to accommodate modern vehicular traffic. Also, the highway is badly located, there existing sharp turns which greatly increase the hazard of collision between vehicles. The remedy proposed is to construct a new undergrade crossing at another location where the existing sharp turns may be avoided and the highway made as safe as possible for vehicular traffic. The proposed plan is desirable and should be carried out. The only point on which there is disagreement is that concerning a division of costs.

If an error was made by public authority in locating the highway something more than fifty years ago the responsibility for that error rests with the public and not with the railroad. So far as the adequacy of the present undergrade crossing is concerned the railroad should bear its full responsibility. To make adequate for present and future traffic the undergrade crossing now existing, without attempting to correct the error made many years ago in locating the highway, according to the testimony would amount to a sum somewhere between $28,000 and $34,000.

I am of the opinion that the railroad should be required to pay one-half of the estimated cost of making adequate the existing undergrade crossing. If it is in the public interest, as clearly appears from the record, that the line of the highway be changed and that a new undergrade crossing be established at another and different location, then it seems to me to be just and equitable that the railroad should contribute

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to the cost of the new undergrade crossing approximately the sum which it otherwise would have been justly required to pay to make the present undergrade crossing adequate and capable of carrying the traffic.

I feel that to require the railroad to pay one-half of the total cost of the proposed entirely new and substitute undergrade crossing, which, exclusive of paving outside the subway, will amount to somewhere between $67,000 and $83,000, is inequitable and amounts approximately to twice as much as in justice to all parties should be paid by the railroad.

I feel that I must refuse to be bound in other and similar cases by the rule laid down by the majority in this proceeding. If, in the years to come this proceeding ever is urged as a precedent or guide for action by this Commission or any other public body, I wish my unequivocal dissent to appear as a part of the record.

H. W. BRUNDIGE.

I concur in the dissent of Commissioner Brundige.

THOS. S. LOUTTIT.

DECISION No. 18124.

IN THE MATTER OF THE APPLICATION OF THE RICHMOND COMPANY, INCORPORATED, FOR ORDER INCREASING RATES FOR THE SALE OF WATER.

Application No. 13260.

Decided March 30, 1927.

RATES—WATER UTILITY—TO INCREASE.—Finding present rates inadequate the Commission grants a small increase, but as system is serving a diminishing number of consumers, full return not allowed.

T. H. De Lap, for Applicant.

BY THE COMMISSION.

OPINION.

The Richmond Company, Incorporated, applicant in the above entitled proceeding, is engaged in the public utility business of supplying water for domestic purposes to the inhabitants of the Rivers tract, a subdivision located north of the city of Richmond, in Contra Costa County. The application alleges in effect that the present rates are not sufficient to meet the cost of water purchased and that the applicant thereby sustains a loss in the cost of operation, maintenance and upkeep. The Commission therefore is asked to authorized an increased schedule of rates for water service.

A public hearing in this proceeding was held before Examiner Satterwhite at Richmond after all interested parties had been duly notified and given an opportunity to be present and be heard.

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The Richmond Company was organized and incorporated in 1916 for the purpose of engaging in the sale of real estate, and installed this water system to aid in the sale of lots in the Rivers tract. The water supply is now obtained by purchase from the East Bay Water Company through a master meter at the regularly established schedule of rates. The distribution system consists of approximately 10,600 feet of mains and twenty-five active service connections all of which are metered.

The rates now in effect were established by the Railroad Commission in its Decision No. 7020, January 9, 1920, and are as follows:

Per 100 cubic feet	$0 26
Minimum charge per month	1 25

A report was presented at the hearing held in this proceeding by R. E. Savage, one of the Commission's hydraulic engineers, in which the estimated original cost of the system as of January 31, 1927, was found to be $7,853, based upon the former findings of value of this system by this Commission for rate fixing purposes. The corresponding replacement annuity amounted to $153, computed by the 5 per cent sinking fund method. The operating and maintenance expenses for the immediate future were estimated in the above report to be $700, the greater part of which is for purchased water. The revenues for the year 1926 amounted to $329.

The community served by applicant is decreasing in population rather than growing, as shown by the fact that in 1919 the utility served thirty-six consumers while at present there are but twenty-five. However, applicant has stated that a return on the investment is not expected at the present time, but that it does desire to be reimbursed for the necessary out-of-pocket costs incurred in operating and maintaining the system, together with a reasonable allowance to cover depreciation of plant.

It is apparent from the figures above that under present conditions of purchasing and distributing water the costs to applicant for the service rendered to consumers are far greater than the revenues received, and that it is therefore entitled to an adjustment of the rates now in effect. The increased schedule of rates established in the following order will provide revenues sufficient to cover operating expenses and depreciation, and in case the community should increase to any reasonable extent in the future will also provide for some return by way of interest upon the investment.

ORDER.

The Richmond Company, Incorporated, having made application to the Railroad Commission as entitled above, a public hearing having been held thereon, and the matter having been submitted:

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It is hereby found as a fact that the rates now charged by The Richmond Company, Incorporated, are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates to be charged for the service rendered.

Basing its order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that The Richmond Company, Incorporated, be and it is hereby authorized and directed to file with this Commission within twenty days from the date of this order the following schedule of rates to be charged for all service rendered to consumers on and after the first day of April, 1927.

Meter Rates.

Minimum monthly charges—

⅝ inch meter	$1 75
¾ inch meter	2 25
1 inch meter	3 00

Each of the foregoing "minimum monthly charges" will entitle the consumer to the quantity of water which that minimum charge will purchase at the following monthly quantity rates:

Monthly quantity rates—

400 cubic feet or less	$1 75
400 to 1,500 cubic feet, per 100 cubic feet	40
1,500 to 6,000 cubic feet, per 100 cubic feet	35
Over 6,000 cubic feet, per 100 cubic feet	30

It is hereby further ordered, that The Richmond Company, Incorporated, be and it is hereby directed to file with this Commission within thirty days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by this Commission.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this thirtieth day of March, 1927.

DECISION NO. 18125.

IN THE MATTER OF THE APPLICATION OF FORD L. HOWLAND FOR A PRELIMINARY ORDER OF PRESENT AND FUTURE PUBLIC CONVENIENCE AND NECESSITY, AND FOR ORDER THAT CERTIFICATE OF SAME ISSUE UPON GRANTING OF FRANCHISE.

Application No. 13294.

Decided March 30, 1927.

CERTIFICATE—WATER UTILITY—TO OPERATE.—Application granted.

Thomas L. Clay, for Applicant.

BY THE COMMISSION.

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OPINION.

In the above entitled application Ford L. Howland asks for authority to operate a water system for the purpose of supplying domestic water to certain lots and tracts in Los Angeles County near the city of San Gabriel, and to exercise certain franchise rights to be granted by the county of Los Angeles.

A public hearing in this matter was held before Examiner Williams at Los Angeles after due notice thereof had been given so that all interested parties might appear and be heard.

According to the evidence applicant is now operating a public utility water system supplying water for agricultural irrigation purposes only in a section of the territory to which he now desires to extend domestic service. The remainder of the territory to be supplied is immediately adjacent thereto. The present water system was acquired by applicant through purchase from one Donald F. Condit, approved by this Commission in its Decision No. 16573, dated April 26, 1926.

The water supply for this area is to be obtained from three wells owned by applicant, and the quantity of water available appears to be adequate for the demands for some time in the future. There is no other public utility water system supplying domestic water in this territory, and there were no protests made against the granting of the application.

Since the hearing in the above matter applicant has filed with the Commission an affidavit showing that the county of Los Angeles has granted applicant a franchise known as Ordinance No. 1449 (new series) to operate a water works in that territory known as East San Gabriel District, and more particularly described as follows:

> Beginning at the intersection of Live Oak avenue and Encenita avenue; thence easterly along said Live Oak avenue to its intersection with El Monte avenue; thence southerly along said El Monte avenue to its intersection with lower Azusa county road; thence westerly along said lower Azusa county road to its intersection with Arden drive; thence in a general southerly direction along said Arden drive to its intersection with the Southern Pacific right of way; thence southwesterly along said Southern Pacific Railway right of way to its intersection with the southerly prolongation of Encenita avenue; thence northerly in a direct line to point of beginning.

As long as applicant has already obtained his county franchise for a water works we will authorize at this time a final certificate of public convenience and necessity to construct and operate a water system for domestic service.

ORDER.

Ford L. Howland having made application to the Railroad Commission as entitled above, a public hearing having been held thereon, the matter having been duly submitted and the Commission now fully advised thereon:

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The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that Ford L. Howland construct and operate a public utility water system to supply water for domestic and other purposes to consumers residing in the territory described in the preceding opinion and as set out in that certain franchise granted to said Ford L. Howland by the county of Los Angeles and known as Ordinance No. 1449 (new series).

It is hereby ordered, that Ford L. Howland be and he is hereby directed to file with this Commission, within thirty days from the date of this order, rules and regulations to govern his relations with consumers, such rules and regulations to become effective upon their acceptance by this Commission.

The effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California this thirtieth day of March, 1927.

DECISION No. 18126.

IN THE MATTER OF THE APPLICATION OF LEWIS A. MONROE, AS AGENT FOR H. H. WALKER, OWNER OF WALKER TRANSFER AND STORAGE COMPANY, FOR AN ORDER AUTHORIZING INCREASES IN CERTAIN CLASS AND COMMODITY RATES.

Application No. 13451.

Decided March 30, 1927.

RATES—AUTO CARRIER—COMMODITY—CLASS—TO REVISE.—Application granted.

H. H. Walker and *Lewis A. Monroe*, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application filed by Lewis A. Monroe as agent for H. H. Walker, owner of an auto truck line operated under the fictitious name of Walker Transfer and Storage Company, with the principal office at East San Gabriel, seeking authority to increase certain class rates, the minimum charge, and to cancel certain commodity rates resulting in increases.

The operative rights of applicant extend from Los Angeles to Arcadia, including intermediate points.

Public hearing was held before Examiner Geary at Los Angeles March 9, 1927, and the application having been duly submitted is now ready for our opinion and order.

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Applicant has in effect the following class rates, shown in cents per 100 pounds:

Between	*And*	*1*	*2*	*3*	*4*
Alhambra, San Gabriel, East San Gabriel, Arcadia	Los Angeles Depot	.28	.23	.18	.13
	Los Angeles Zone 1	.30	.25	.20	.15
	Los Angeles Depot	.31	.26	.23	.16
	Los Angeles Zone 1	.33	.28	.25	.18

It is proposed to increase the fourth class rates above shown to 15, 17, 17 and 19 cents respectively, and to cancel a rate of 10 cents to Alhambra, San Gabriel and East San Gabriel and a rate of 12½ cents to Arcadia applying to fourth class commodities when in lots of one ton or over.

Where the present minimum charge is 35 cents for shipments weighing over twenty-five pounds it is proposed this charge be increased to 50 cents.

Applicant also has in effect the following class rates applying on shipments of three tons or over:

Between	*And*	*1*	*2*	*3*	*4*
Los Angeles	Alhambra, San Gabriel	.20	.15	.12½	.10
	Arcadia	.25	.20	.18	.12½

and at the same time commodity rates on certain articles lower than the corresponding class rates. Some of these commodity rates are to be cancelled entirely, leaving in effect the class rates, while others are to be increased by amounts ranging from 2 cents to 7 cents per 100 pounds.

Traffic tests have been made from time to time and show that the tonnage handled on the special commodity rates is transported at a loss.

Applicant testified that shippers had been fully advised of the proposed increases. No objections were entered at the hearing, notwithstanding that notices were mailed to individuals, chambers of commerce and competing lines.

A traffic check presented as applicant's Exhibit "B" and submitted at the hearing, covering the month of October, 1926, shows that had the proposed rates been applied the additional revenue would have totaled $74.36. Assuming October to be a representative month the total additional revenue accruing to applicant by reason of the proposed increases in rates is stated as $892.32 per annum.

In justification of the increases as proposed, applicant submitted as Exhibit "C" a financial statement covering a nine months' period, ending September 30, 1926, showing total loss from operations of $468.22 and by extending these figures for one year an estimate of $624.29. The

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total investment is shown as approximately $8,000. Under the proposed rates the net gain from operation would be less than $300.

Upon consideration of all the facts of record we are of the opinion and find that the applicant should be authorized to increase the rates as set forth in the application and that the application should be granted.

ORDER.

This application having been duly submitted, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order, which said opinion is made a part hereof;

It is hereby ordered, that applicant, H. H. Walker, operating under the fictitious name of Walker Transfer and Storage Company, be and he is hereby authorized to publish upon not less than ten days' notice to the Commission and to the public, in tariffs constructed in accordance with the rules of the Commission, the rates as proposed and set forth in the application.

Dated at San Francisco, California, this thirtieth day of March, 1927.

DECISION No. 18128.

IN THE MATTER OF THE JOINT APPLICATION OF A. C. WOODARD AND OAKLAND-SAN JOSE TRANSPORTATION COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE AND SELL SECURITIES OF SAID OAKLAND-SAN JOSE TRANSPORTATION COMPANY, AND FOR PERMISSION FOR A. C. WOODARD TO SELL HIS FRANCHISE AND BUSINESS TO OAKLAND-SAN JOSE TRANSPORTATION COMPANY.

Application No. 13471.

Decided March 30, 1927.

SECURITIES—STOCK—TO ISSUE—TRANSFER.—A. C. Woodard authorized to transfer certificate and operating properties to Oakland-San Jose Transportation Company, and the latter authorized to acquire same, and to issue stock in payment therefor, and to meet other indebtedness, and to provide working capital.

J. W. O'Neill, for Applicants.

BY THE COMMISSION.

OPINION.

This is an application in which the Railroad Commission is asked to authorize A. C. Woodard to transfer certain operative rights and properties used in the conduct of a truck transportation business, to Oakland-San Jose Transportation Company, a corporation, and to authorize the corporation to issue $36,500 of common stock and $39,400 of preferred stock.

The record shows that A. C. Woodard, doing business under the firm name and style of Oakland-San Jose Transportation Company, is

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engaged in transporting freight and express by auto trucks between Oakland and San Jose and other points. It appears that he has decided that the business can be operated better and funds for additional equipment obtained more readily by a corporation and for that reason has caused the organization of Oakland-San Jose Transportation Company, a corporation, for the purpose of receiving his operating rights and properties and thereafter of conducting the business, his testimony herein showing, however, that there will be no change in the management and method of operation as a result of the proposed transfer.

The articles of incorporation of Oakland-San Jose Transportation Company, a copy of which is attached to the petition, show that it was organized on or about January 4, 1927, with an authorized capital stock of $200,000, consisting of 2,000 shares of the par value of $100 each divided equally into common stock and 8 per cent cumulative preferred stock redeemable at 103 at any time after three years. The corporation proposes at this time to issue $31,500 of common stock to A. C. Woodard in part payment for his rights and properties and to issue and sell $5,000 of common stock and $39,400 of preferred stock for the purpose of providing funds to liquidate indebtedness to be assumed in connection with the acquisition of such properties, to finance the cost of additional equipment and to furnish working capital.

The operative rights to be transferred to the corporation are those heretofore acquired by A. C. Woodard under authority granted by the Commission by Decisions Nos. 7974, 12058, 12751, 13321 and 14467. It appears that by Decision No. 7974, dated August 10, 1920, in Application No. 5965, A. C. Woodard was authorized to purchase the operative right to conduct an automobile truck line as a common carrier of freight and express between Oakland and San Jose and intermediate points, and that by Decision No. 12058, dated May 8, 1923, in Application No. 8971, he was authorized to purchase the operative right to conduct his operations between San Jose and Haywards and intermediate points and between San Jose and Livermore and intermediate points.

Thereafter by Decision No. 12751, dated October 25, 1923, in Application No. 9163, A. C. Woodard was authorized to establish through rates over his various routes, no authority being granted, however, for through truck service between Oakland and Livermore. By Decision No. 13321, dated March 25, 1924, in Application No. 7987, he was authorized to file joint rates with Merchants Express and Drayage Company quoting class rates and minimum charges between San Francisco and all points beyond Oakland to and including Irvington, and by Decision No. 14467, dated January 17, 1925, in Application No. 10036, to establish through rates and joint rates with Drayage Service

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Corporation, H. L. Hinman, doing business under the firm name and style of Merchants Express and Drayage Company, H. L. Hinman, doing business under the firm name and style of Oakland Parcel Delivery Company, William Bolt, doing business under the firm name and style of Kellogg's Express Company and R. H. Rasmussen and J. C. Svane, copartners doing business under the firm name and style of Santa Fe Express and Drayage Company, for the transportation of freight between San Francisco on the one hand and San Leandro and Wayne and intermediate points on the other hand, and also, between San Francisco on the one hand and Sunol and Livermore on the other, no authority being granted, however, for the establishment by A. C. Woodard of a through truck service between Oakland and Livermore. The order herein should not be construed as permitting the establishment of such through service.

The other properties to be transferred include current assets, materials and supplies, office furniture and fixtures and eleven trucks and automobiles. The assets and liabilities of the business, as of December 1, 1926, are reported as follows:

Assets.

Automobile equipment	$37,349 52
Furniture and fixtures	3,187 02
Machinery and tools	1,891 20
Franchise (cost)	1,912 97
Cash	1,501 22
Accounts receivable	4,533 78
Prepayments	1,008 40
Total assets	$51,384 11

Liabilities.

Capital investment	$16,379 20
Notes payable	800 00
Contracts payable	8,346 73
Accounts payable	2,077 49
Interest due	31 77
C. O. D's. payable	1,128 52
Reserve for depreciation	22,620 40
Total liabilities	$51,384 11

Applicant A. C. Woodard reports that since the date of the balance sheet he has acquired two additional cars at a cost of $14,380.24, and further, that in the past he has charged off depreciation on trucks at the rate of 25 per cent per annum, which he alleges was excessive and resulted in an understatement of the assets by the amount of $12,898.85. Adding the $14,380.24 and the $12,898.85 to the reported investment of $16,379.20 results in a total of $43,658.30. It appears, however, that in acquiring these properties the corporation will assume the payment of indebtedness of $10,235.11, consisting of contracts payable within a period of one year, and other current liabilities, which amount

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deducted from the $43,658.30 will leave a balance of approximately $31,500, the amount of stock the corporation proposes to issue to A. C. Woodard. Subsequent to the hearing, applicants informed the Commission that depreciation should be calculated, and that hereafter they will calculate, depreciation on the basis of 15 per cent per annum.

Coming to the request of the corporation to issue the additional stock consisting of $5,000 of common stock and $39,400 of preferred, it appears that applicant proposes to sell the stock at the par value thereof, but that it asks permission to use 10 per cent of the proceeds to pay commissions. The record shows that it is the intention of the corporation to endeavor to dispose of the stock through its own efforts, in which case, no commission will be paid. If unsuccessful, it proposes to employ stock salesmen to market its stock.

The corporation reports that it plans to use about $10,235.11 of the proceeds from the sale of the stock to liquidate indebtedness it will assume in connection with the purchase of properties, $5,000 to pay for additional warehouse and platform equipment, $15,000 to pay for additional automotive equipment and about $9,764.89 to provide working capital. The warehouse equipment it proposes to purchase consists of two platform scales, costing about $1,800, one large scale, costing about $2,300 set up, three platform trucks, costing about $600 and platforms and runways costing about $300. The additional automotive equipment to be acquired probably will consist of two 2-ton trailers, costing about $1,200 each without bodies, and two 2½-ton White trucks costing about $5,700 each. It is thought that the additional equipment is needed to take care of the growth in business.

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of auto truck operating rights and properties and the issue of stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the stock is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that A. C. Woodard, doing business under the firm name and style of Oakland-San Jose Transportation Company, be and he hereby is authorized to transfer to Oakland-San Jose Transportation Company, a corporation, subject to outstanding indebtedness, the properties and operative rights now owned by him to which reference is made in the foregoing opinion, and Oakland-San Jose Trans-

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portation Company, a corporation, be and it hereby is authorized to purchase and acquire such properties and operative rights.

It is hereby further ordered, that Oakland-San Jose Transportation Company, a corporation, be and it hereby is authorized to issue in part payment for the properties and rights herein authorized to be transferred $31,500 of the common capital stock and to issue and sell, on or before December 31, 1927, at not less than the par value thereof $5,000 of its common stock and $39,400 of its preferred stock.

The authority herein granted is subject to the following conditions:

1. Oakland-San Jose Transportation Company, a corporation, may use, if necessary, an amount not exceeding 10 per cent of the par value of stock sold to pay commissions for the sale of stock and may use the remaining proceeds for the following purposes:

a. To liquidate indebtedness to be assumed in connection with the acquisition of the property of A. C. Woodard, about	$10,235 11
b. To purchase additional warehouse and platform equipment as indicated in the foregoing opinion, about	5,000 00
c. To purchase additional automotive equipment as indicated in the foregoing opinion, about	15,000 00
d. For working capital, about	9,764 89
Total	$40,000 00

Any remaining proceeds and any portion of the $40,000 not used for the foregoing purposes may be used only for such purposes as the Commission may authorize in supplemental orders.

2. Oakland-San Jose Transportation Company, a corporation, shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other public body as a measure of value of said property for any purpose other than the transfer herein authorized.

4. Applicant A. C. Woodard shall immediately unite with applicant, Oakland-San Jose Transportation Company, a corporation, in common supplement to the tariffs on file with the Commission, applicant A. C. Woodard on the one hand withdrawing, and applicant, Oakland-San Jose Transportation Company, a corporation, on the other hand, accepting and establishing such tariffs and all effective supplements thereto.

5. Applicant A. C. Woodard shall immediately withdraw the time schedules filed in his name with the Railroad Commission and applicant, Oakland-San Jose Transportation Company, a corporation, shall immediately file in duplicate in its own name, time schedules covering

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service heretofore given by applicant A. C. Woodard, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant A. C. Woodard, or time schedules satisfactory to the Railroad Commission.

6. The rights and privileges herein authorized to be transferred may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

7. No vehicle may be operated by applicant, Oakland-San Jose Transportation Company, a corporation, unless such vehicle is owned by said applicant or is leased under a contract or agreement on a basis satisfactory to the Railroad Commission.

8. Applicant, Oakland-San Jose Transportation Company, a corporation, shall file with the Railroad Commission, for approval, a copy of its book entries recording on its books of account the purchase of the properties of A. C. Woodard.

9. The authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this thirtieth day of March, 1927.

DECISION No. 18129.

IN THE MATTER OF THE APPLICATION OF THE MISENER MOTOR-DRAYAGE COMPANY, (1) FOR PERMIT TO ISSUE STOCK, (a) FOR PURCHASE OF EXISTING BUSINESS, (b) FOR SUCH FUTURE SALE, IF ANY, AS MAY BE DESIRED, AND (2) OF THE SAID CORPORTATION, AS PURCHASER, AND OF JOSEPH E. GARCIA, L. A. MISENER, PETER WINFIELD, LUGO WINFIELD AND W. F. ELY, AS SELLERS, TO SELL AND TO PURCHASE AN AUTOMOBILE FREIGHT LINE, NOW OPERATED BETWEEN WINTERS, OAKLAND, BELMONT, SAN JOSE, SANTA CRUZ, WATSONVILLE, CARMEL AND INTERMEDIATE POINTS, UNDER DECISIONS OF THIS COMMISSION NOS. 9398, 10281, 15285 AND 16491.

Application No. 13521.

Decided March 30, 1927.

TRANSFER—AUTO CARRIER—STOCK TO ISSUE.—Application granted.

O. G. Foelker, for Applicants.

BY THE COMMISSION.

OPINION.

This is an application in which the Railroad Commission is asked to make its order:

1. Authorizing Joseph E. Garcia to transfer certain operative rights and properties to The Misener Motor-Drayage Company, a corporation, and

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2. Authorizing Louisa A. Misener, Peter Winfield, Lugo Winfield and W. F. Ely, copartners doing business under the firm name and style of Misener Motor Drayage Company, to transfer certain operative rights and properties to The Misener Motor-Drayage Company, a corporation; and,

3. Authorizing The Misener Motor-Drayage Company, a corporation, to issue 500 shares of its common capital stock of the aggregate par value of $50,000.

The application shows that The Misener Motor-Drayage Company was organized on or about December 31, 1926, with an authorized capital stock of $50,000, divided into 500 shares of the par value of $100 each, all common. It is asking in this petition for permission to issue all of its capital stock. It proposes to deliver $45,000 thereof in payment for the operative rights and properties which it intends to acquire and to sell the remaining $5,000 at par without payment of any selling commission.

The operative rights proposed to be transferred to the corporation are those acquired by Joseph E. Garcia under authority granted by the Commission by Decisions Nos. 10281, 10939 and 16491 and those acquired by the copartnership Misener Motor-Drayage Company under authority granted by Decisions Nos. 9398, 11634 and 15255. It appears that by Decision No. 10281, dated April 5, 1922, in Application No. 7613, the Commission authorized J. E. Garcia and G. B. Santos to operate a motor express service for the transportation of fruit and produce only between East San Jose, Warm Springs, Mission San Jose, Niles, Irvington, Centerville, Alvarado, Decoto, Mt. Eden, Haywards, San Lorenzo, San Leandro, Elmhurst and Oakland, no permission being granted to transport any goods, wares or merchandise other than fruit or vegetables nor to operate during any part of the year except when fruit and vegetables are produced in the above described region. Thereafter, by Decision No. 10939, dated September 2, 1922, in Application No. 8212, G. B. Santos was authorized to transfer his interest in the operating right granted by Decision No. 10281 to J. E. Garcia. Subsequently by Decision No. 16491, dated April 16, 1926, in Application No. 11174, the Commission authorized J. E. Garcia to extend the operations authorized by Decision No. 10281 to include service to San Francisco.

Referring to the rights heretofore acquired by the copartnership Misener Motor-Drayage Company, it appears that by Decision No. 9398, dated August 23, 1921, in Application No. 6730, the Commission authorized L. A. Misener to transport, as a common carrier, green fruit, vegetables and farm produce between Los Gatos and Oakland, serving as intermediate points Cupertino, Saratoga, Mountain View, Sunnyvale, Santa Clara, San Jose, Campbell, Berryessa and Milpitas,

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with no return loads other than empties, and no shipments between San Jose and Oakland originating on the state highway between such points, although at the places named above shipments originating at ranches located at points off the state highway may be handled within a zone not in excess of two miles distant from said state highway. Subsequently by Decision No. 11634, dated February 9, 1923, in Application No. 8641, L. A. Misener was authorized to transfer this right to a copartnership, the present owner, consisting of L. A. Misener, Peter Winfield, Lugo Winfield and W. F. Ely. Later, by Decision No. 15255, dated August 4, 1925, in Application No. 11149, the Commission authorized the copartnership to operate an automobile truck line as a common carrier of apples between Santa Cruz, Soquel, Aptos and Watsonville, including a radius of two miles from each point on the one hand and Oakland on the other hand, during the fruit season only of each year and for the transportation of vegetables between Carmel, Monterey and Castroville, including a two-mile radius from each point on the one hand, and Oakland on the other hand, during the fruit season of each year and for the transportation of vegetables and fruits between Alviso, Mayfield, Menlo Park, Atherton, Redwood City and Belmont, including two-mile radius from each point on the one hand and Oakland on the other hand, all of said service to be a part of and as an extension to the existing operating rights theretofore granted by Decision No. 9398 and acquired by the copartnership by Decision No. 11634, and also to operate an auto truck line for the transportation of vegetables and fruits between Winters, Vacaville, Fairfield and Cordelia, including a two-mile radius from each point on the one hand and Oakland on the other hand and for the transportation of fruits and vegetables between Knightson, Oakley, Antioch and Concord, including a two-mile radius from each point on the one hand and Oakland on the other hand, during the fruit and vegetable season only of each year.

The testimony herein indicates that applicants are of the opinion that the two operations can be conducted more advantageously and economically if merged under one ownership. The corporation asks permission, upon acquiring these several rights, to consolidate them and to operate them as one system. We have given consideration to this request and believe that the transfer of the operative rights to the corporation and the consolidation thereof by the corporation should be authorized and the order herein will so provide. No one appeared in protest to the granting of the application.

Coming to the request of the corporation to issue $45,000 of stock, it appears that $15,000 thereof will be delivered to Joseph E. Garcia in payment for his operative rights and properties and $30,000 to the copartnership in payment for its rights and properties. The rights are those described in the preceding paragraphs and the properties

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are those set forth in Exhibit "F" attached to the petition. This exhibit shows the properties to be transferred as follows:

From the copartnership:

One 1922 Packard, three tons.
One 1923 Armerada, three and one-half tons.
One 1923 Mack, two and one-half tons.
One 1924 White, three and one-half tons.
One 1924 Reo, one ton.
One 1923 Ford, one ton.
Four three-ton trailers.
Eight truck covers.
Oil and grease, etc.

From Joseph E. Garcia:

One 1921 Mack, three and one-half tons.
One 1922 Mack, two and one-half tons.
One 1921 Day Elder, two and one-half tons.
One 1926 Kleiber, two and one-half tons.
One 1925 Ford, one and one-half tons.
One 1926 Ford, one ton.
One 1925 Ford coupe.
One 1915 Ford delivery car.
One gasoline pump.
One gas tank, 270 gallons.
One transmission gear pump.
One battery charger.
Oil and grease.

It is of record that all of the equipment is well maintained, and that all of it is in good operating condition.

It appears to us that the proposed issue of $45,000 of stock is reasonable and the order herein accordingly will authorize the issue of such an amount in payment for the physical properties to be transferred to the corporation.

As to the request of the corporation to issue and sell $5,000 of stock, it appears that it is not in a position at this time to advise the Commission when or for what purposes such stock will be issued, it being the corporation's desire to hold this stock in its treasury and to dispose of it from time to time as the need for its sale may arise. The order herein, in this respect, will provide, therefore, that the proceeds from the sale of the $5,000 of stock may be used only when and for such purposes as the Commission may authorize in supplemental orders to be made upon supplemental requests filed by applicant, The Misener Motor-Drayage Company, setting forth in detail the purposes for which it proposes to use such proceeds.

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ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer and consolidation of auto truck operating rights and properties and the issue of stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the application should be granted as herein provided and that the money, property or labor to be procured or paid for through such stock issue is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, as follows:

1. Joseph E. Garcia may transfer to The Misener Motor-Drayage Company, a corporation, the properties to which reference is made in the foregoing opinion and in this application and the operating rights heretofore acquired by him under authority granted by the Commission by Decision No. 10281, dated April 5, 1922, Decision No. 10939, dated September 2, 1922, and Decision No. 16491, dated April 16, 1926:

2. L. A. Misener, Peter Winfield, Lugo Winfield and W. F. Ely, copartners, doing business under the firm name and style of Misener Motor-Drayage Company be and they hereby are authorized to transfer to The Misener Motor-Drayage Company, a corporation, the properties to which reference is made in this application and the operating rights heretofore acquired by them under authority granted by the Commission by Decision No. 9398, dated August 23, 1921, Decision No. 11634, dated February 9, 1923, and Decision No. 15255, dated August 4, 1925.

3. The Misener Motor-Drayage Company, a corporation, may acquire the operating rights herein authorized to be transferred and may consolidate them into one unified system, subject to the limitations imposed on such operating rights by the several decisions of the commissions under which they were acquired by the present owners, which limitations are referred to in the preceding opinion.

4. The Misener Motor-Drayage Company, a corporation, may issue 500 shares of its capital stock, of the aggregate par value of $50,000, and deliver 450 shares thereof, of the aggregate par value of $45,000, in payment for the operating rights and properties herein authorized to be transferred to it, and sell 50 shares thereof, of the aggregate par value of $5,000, on or before June 30, 1928, at not less than the par value thereof without deductions for selling expenses or commissions, provided that none of the proceeds from the sale of such 50 shares be expended except for such purposes as the Commission hereafter may authorize.

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5. The authority herein granted is subject to the following conditions:

a. The Misener Motor-Drayage Company, a corporation, shall keep such records of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

b. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other public body as a measure of value of said property for any purpose other than the transfer herein authorized.

c. Applicants Joseph E. Garcia and L. A. Misener, Peter Winfield, Lugo Winfield and W. F. Ely shall immediately unite with applicant, The Misener Motor-Drayage Company, a corporation, in common supplement to the tariffs on file with the Commission, applicants Joseph E. Garcia and L. A. Misener, Peter Winfield, Lugo Winfield and W. F. Ely on the one hand withdrawing and applicant, The Misener Motor-Drayage Company, a corporation, on the other hand, accepting and establishing such tariffs and all effective supplements thereto.

d. Applicants Joseph E. Garcia and L. A. Misener, Peter Winfield, Lugo Winfield and W. F. Ely shall immediately withdraw the time schedules filed in their names with the Railroad Commission and applicant, The Misener Motor-Drayage Company, a corporation, shall immediately file in duplicate in its own name, time schedules covering service heretofore given by applicants Joseph E. Garcia and L. A. Misener, Peter Winfield, Lugo Winfield and W. F. Ely, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the names of Joseph E. Garcia and L. A. Misener, Peter Winfield, Lugo Winfield and W. F. Ely, or time schedules satisfactory to the Railroad Commission.

e. The rights and privileges herein authorized to be transferred may not be sold, leased, transferred or assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

f. No vehicle may be operated by The Misener Motor-Drayage Company, a corporation, unless such vehicle is owned by said applicant or is leased under a contract or agreement on a basis satisfactory to the Railroad Commission.

g. The authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California this thirtieth day of March, 1927.

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DECISION No. 18130.

IN THE MATTER OF THE APPLICATION OF WEST SIDE TRANSIT COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO BORROW MONEY SECURED BY A MORTGAGE ON REAL ESTATE OWNED BY IT.

Application No. 13554.

Decided March 30, 1927.

SECURITIES—NOTE—TO ISSUE.—Application granted.

Todd, Pawson and Watkins, by *N. M. Todd*, for Applicant.

BY THE COMMISSION.

OPINION.

The West Side Transit Company asks permission to issue a $12,000 8 per cent note, principal and interest payable at the rate of $156 per month, to execute a deed of trust to secure the payment of such note, and use the proceeds for the purpose of paying indebtedness.

Applicant is engaged in the automobile bus transportation business, transporting passengers for compensation in the city of Long Beach and between the city of Long Beach and Manchester avenue in the city of Los Angeles. It is of record that on December 18, 1924, applicant executed and delivered its promissory note in the principal sum of $12,000, payable in monthly installments of $100 with interest thereon at the rate of 8 per cent per annum payable monthly, and executed a mortgage to secure the payment of such note. The evidence shows that at the time of the issue of the note and the execution of the mortgage applicant was not familiar with the provisions of the Transportation Act. Upon having its attention called to those provisions applicant filed with the Commission the pending application.

The testimony shows that the money obtained through the issue of the $12,000 note to which reference has been made was used for the purpose of constructing a garage and repair shop building. Of the indebtedness created December 18, 1924, there remains now due and payable approximately $9,700.

The company, however, asks permission to issue a new note of the sum of $12,000 and use part of the proceeds to pay the indebtedness to which reference has been made and to use the remainder to pay a $2000 note due Pacific Southwest Bank and provide itself with working capital. The proposed deed of trust will be a lien on real property located in the city of Long Beach and more particularly described as Lot seven (7), except the northerly seventy-three (73) feet thereof, Block four (4), Long Beach Harbor View Tract, as per map recorded in Block three (3), page fifty-six (56), of maps in the office of the County Recorder of the county of Los Angeles. The property is reported to have cost applicant $23,388.65 and is alleged to have a present value of $35,000.

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ORDER.

West Side Transit Company having applied to the Railroad Commission for permission to issue a $12,000 note and execute a deed of trust, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the purposes for which applicant is herein authorized to expend the proceeds obtained from the issue of said note are not in whole or in part reasonably chargeable to operating expenses or to income, therefore,

It is hereby ordered, that the West Side Transit Company be and it is hereby authorized to issue to the Mutual Building and Loan Association of Long Beach a $12,000 note, payable at the rate of $156 per month including principal and interest, with interest thereon at the rate of 8 per cent per annum, and to execute a deed of trust substantially in the same form as the deed of trust filed in this proceeding on March 16, 1927, provided that the authority herein granted to execute said deed of trust is for the purpose of this proceeding only and is granted in so far as the Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

It is hereby further ordered, that West Side Transit Company shall use the proceeds obtained from the issue of the note, to pay the balance due on the indebtedness created on December 18, 1924; to pay the $2,000 note referred to in this application and to provide itself with working capital.

It is hereby further ordered, that the authority herein granted will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25, and that applicant shall keep such record of the issue, sale and delivery of the note herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this thirtieth day of March, 1927.

DECISION NO. 18132.

IN THE MATTER OF THE COMPLAINT OF W. J. PARKER, W. B. McNEES, A. W. FULLER, W. H. DENMAN, S. R. SMITH, D. CALENDER, TOM NICOLOS, E. H. HAMLIN, JR.

vs.

C. GULLING.

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Case No. 2285.
Decided March 30, 1927.

COMMISSION'S JURISDICTION—WATER UTILITY—SERVICE CONDITIONS.—Finding that defendant is a public utility the Commission orders him to file rates, rules and regulations with the Commission, and to take steps to improve and safeguard the service to existing consumers.

W. J. Parker, for Complainants.
L. B. Fowler, for Defendant.

BY THE COMMISSION.

OPINION.

This is a case filed by W. J. Parker and seven other water users complaining against the inadequate and interrupted water service furnished by C. Gulling, defendant, who owns and operates a water system supplying water for domestic and commercial purposes to the inhabitants of the town of North Portola, in Plumas County.

The complaint alleges in effect that for the past sixteen years defendant has been engaged in the business of supplying water for compensation to the residents of North Portola; that defendant is also engaged in the real estate business and during the past three years has sold lots in and about North Portola, agreeing to furnish to each lot purchaser sufficient water for household and other purposes; that the water supply is now and for several years last past has been entirely inadequate to meet the reasonable requirements of existing consumers, and that notwithstanding this limited water supply defendant continues to add new consumers to the system, thereby depriving the former consumers of the water to which they are entitled. It is further alleged that for long periods during each day defendant has maintained the practice of shutting off the water supply to the older consumers in order to furnish water to the recent purchasers of lots sold by him. Complainants request that defendant be directed to place in effect and observe such rules and regulations governing the sale and distribution of water as will not deprive the older consumers of the use of water heretofore enjoyed by them.

By way of answer defendant alleges that he has been the owner of certain lands in Portola for a period of sixteen years; that a part of such lands has been subdivided into lots which he has sold and is now selling to various people; that he has delivered water to the purchasers of lots as a matter of accommodation and not for profit. He alleges that he has never sought or acquired a franchise for permission to operate a public utility water system, and therefore alleges that the service being rendered by him is not public utility in character. Defendant further alleges that during the past year he has expended not less than $2,000 for the purpose of obtaining an additional water supply, but that by reason of the limited precipitation and general water shortage in the vicinity of Portola the water supply has been far below

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normal. Defendant therefore requests that the complaint herein be dismissed.

A public hearing in the above entitled matter was held before Examiner Geary at Portola after all interested parties had been notified and given an opportunity to appear and be heard.

From the evidence it appears that this water system has been in operation continuously during the past sixteen years, serving water for domestic and commercial purposes to residents of the community of North Portola, located on the northerly side of the Feather River immediately opposite the town of Portola. The water supply is obtained from three springs, augmented by pumping from a well. Distribution is made by gravity from a small reservoir by means of two inch and three-quarter inch mains.

Although rates and annual reports have been filed by the defendant with the Railroad Commission, in accordance with its rules and regulations, the schedule of rates set out therein has not been followed by defendant. The rates now in effect on this system for water delivered to consumers are the same as the rates established by this Commission for the Portola Water Company in Decision No. 3722, dated September 28, 1916. The system now serves thirty consumers on a flat rate basis.

The testimony very clearly indicates that the present water supply of this system is wholly inadequate for the necessary and reasonable demands of the present consumers, and that for several years last past during the summer months defendant has followed the practice of shutting off one part of the system for a period of twelve hours while water was being delivered to the remaining part. By alternating deliveries under this method to the two sections of the community a certain amount of water was delivered to all consumers. However, this plan has been very unsatisfactory and has not resulted in the delivery of an adequate or reasonable amount of water to any of the people. Although some effort has been made to increase the water supply, additional water has not as yet been obtained to properly take care of the requirements of the system. Notwithstanding this condition of wholly inadequate water supply, defendant has continued to add to the system all new consumers who applied for service. While the evidence shows that by reason of the long period of low rainfall an abundance of water for domestic purposes is not easily obtainable in this vicinity except at considerable expense, it is apparent that defendant has not taken proper measures or made any reasonable effort to fulfill his obligations to the public to obtain an additional water supply to adequately serve his consumers.

Defendant will be expected to take such measures to acquire additional water by pumping from the Feather River or otherwise as may be necessary to relieve the inadequate service conditions existing on his system. In the mean time defendant will be restricted from adding

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any further consumers to the system until such additional water is obtained. Should the added investment required to obtain the necessary water be not adequately provided for in the schedule of rates now in effect, defendant may if he so desires apply to the Commission for such adjustment in the existing schedule of rates as may be necessary to afford a reasonable return upon the capital investment over and above the proper costs of maintenance and operation of the system.

In connection with the contention of defendant that he is not operating as a public utility, it is sufficient to say that the evidence clearly indicates that defendant for a period of approximately sixteen years has been delivering water for compensation to all members of the general public residing in and about North Portola who applied for such service; that he has filed rates and annual reports with the Railroad Commission in compliance with its rules and regulations; and that on all monthly bills sent to the consumers for service rendered there appears, printed thereon, a statement in part as follows: "In accordance with regulations of the Railroad Commission this bill is due and payable at the company office or to its agent," etc.

In view of these facts it is clear that defendant is operating his water system as a public utility and is therefore under the jurisdiction of the Railroad Commission.

ORDER.

W. J. Parker et al. having made formal complaint to this Commission as entitled above, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed thereon;

It is hereby ordered:

1. That C. Gulling file with this Commission within thirty days from the date of this order the schedule of rates now in effect on his water system at North Portola.

2. That within thirty days from the date of this order C. Gulling file with this Commission revised rules and regulations governing the relations with his consumers, said rules and regulations to become effective upon acceptance for filing by the Commission.

3. That C. Gulling be and he is hereby directed to file with this Commission within thirty days from the date of this order a special rule and regulation setting forth a schedule of hours for the delivery of water to his consumers, to be placed in effect as soon as water conditions require and to continue in effect until such time as the additional water supply directed to be provided for herein shall be made available to his consumers.

4. That C. Gulling be and he is hereby ordered not to supply or agree to supply water to any new consumers from and after the date of this order except by authority of this Commission.

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5. That C. Gulling be and he is hereby directed to file with this Commission plans for the obtaining of an additional and adequate supply of water for the consumers served by his water system at North Portola, said additional supply to be available to the consumers on or before the fifteenth day of July, 1927.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this thirtieth day of March, 1927.

DECISION No. 18139.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY, TO SELL ITS REDONDO BEACH RESORT PROPERTY IN THE CITY OF REDONDO BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, NOT NECESSARY OR USEFUL IN THE PERFORMANCE OF ITS DUTY TO THE PUBLIC.

Application No. 13549.

Decided March 30, 1927.

TRANSFER—NONUTILITY PROPERTY—TO SELL.—Pacific Electric Railway Company authorized to sell to T. R. Gardiner for the sum of $1,800,000 certain amusement resort property in the city of Redondo Beach, Los Angeles County.

Frank Karr, for Applicant.

BY THE COMMISSION.

ORDER.

Pacific Electric Railway Company asks permission to sell, for $1,600,000, certain real property, hereinafter described, which is located in the city of Redondo Beach and which applicant alleges is not used or useful in the performance of its railroad operations or of its duties to the public.

The application shows that the company has entered into an agreement, dated September 30, 1926, with T. R. Gardiner to convey the property to a corporation to be organized by him for the aforesaid sum of $1,800,000 with interest on deferred payments at the rate of 6 per cent per annum, payment to be made as follows:

$100,000 within ninety days after receipt by the new corporation of permit from the Commissioner of Corporations of California to sell its securities.

$100,000 six months after taking possession of the property.

$1,600,000 in equal annual installments thereafter extending over a period of ten years.

The agreement provides that when the principal has been reduced to $1,000,000 the railway company will give a deed to the purchaser for the property and will take back a first mortgage to run for the balance of the ten-year period.

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It appears that the new corporation referred to has been organized under the name of Redondo Land and Improvement Company and has received a permit from the Commissioner of Corporations to sell its securities.

Applicant also desires authority to quitclaim a fifteen-foot strip of land described in a deed to Southern California Railway Company recorded in book 1053, page 304 of deeds, Los Angeles County records.

The property which the company asks permission to sell consists of about twenty-one (21) acres of applicant's resort and ocean-front land in the city of Redondo. In the 1920 valuation of the Pacific Electric Railway Company properties by the engineering department some of the properties which applicant asks permission to sell were classified as operative property. At present none of the property is used in the conduct of applicant's transportation business.

We are of the opinion that applicant is receiving a reasonable price for the properties, that a public hearing in this matter is not necessary and that the company's request should be granted as herein provided; therefore,

It is hereby ordered, that Pacific Electric Railway Company be and it herein is authorized to quitclaim a fifteen-foot strip of land described in a deed to Southern California Railway Company recorded in book 1053, page 304 of deeds, Los Angeles County records, and sell to T. R. Gardiner or his assigns for $1,800,000, subject to the terms of the agreement dated September 30, 1926 (Exhibit A), the following described property (other than property transferred by quitclaim deed):

Parcel 1. That portion of block 214 and those portions of lot 1 to 20 inclusive, in block 213 of the townsite of Redondo Beach, in the city of Redondo Beach, county of Los Angeles, State of California, as per map recorded in book 39, page 1, et seq., miscellaneous records of said county and that portion of the Rancho San Pedro, in said city, county and state, described as a whole as follows:

Beginning at the southwesterly corner of lot 1, of the Knob Hill tract, as shown on map recorded in book 5, page 73, of maps, records of said county; thence northerly along the westerly line of said Knob Hill tract to the southwesterly corner of lot 20, said Knob Hill Tract; thence westerly along the westerly prolongation of the southerly line of said last mentioned lot 20, 46 feet; thence northerly in a direct line to the southwesterly corner of lot 21, in block 213, of said townsite of Redondo Beach; thence northerly along the westerly line of said block 213 to the northwesterly corner of lot 41, said block 213; thence northeasterly in a direct line to the intersection of a straight line drawn from the northwesterly corner of said lot 41 to the southwesterly corner of lot 9 in block 215 of Redondo Beach, as shown on map recorded in book 72, page 70, miscellaneous records of said county, with a line which is parallel with and 15 feet westerly, measured at right angles, from the westerly line and prolongations thereof of lots 6 to 9, inclusive, said block 215; thence northerly along said parallel line to the westerly line of said block 215; thence northerly along said last mentioned westerly line to the northwesterly corner of lot 1, said block 215; thence north 1° 21′ east, along the westerly line of the land conveyed to H. B. Ainsworth by deed recorded in book 3026, page 92 of deeds, records of said county 10.26 feet to the northwesterly corner thereof; thence north 78° 24′ east, along the northerly line of the land so conveyed to H. B. Ainsworth 52.50 feet, to an angle point therein; thence north 0° 24′ west, along the westerly line of the land described in deed to the city of Redondo Beach, recorded in book 3421, page 65 of

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deeds, records of said county, 68.18 feet to the northwesterly corner thereof; thence westerly and northerly along the southerly and westerly lines of the Redondo Hotel tract, as shown on map recorded in book 9, page 38 of maps, records of said county, to the easterly prolongation of the southerly line of the 60-foot right of way conveyed to the Redondo Beach Railway Company, by deed recorded in book 511, page 56 of deeds, records of said county; thence westerly along said easterly prolongation and southerly line and the westerly prolongation of the southerly line of the land so conveyed to the Redondo Beach Railway Company to the mean high tide line of the Pacific Ocean; thence southerly along said mean high tide line to the southerly line of said Rancho San Pedro; thence easterly along said last mentioned southerly line to the point of beginning.

Except therefrom that portion thereof included within the 15-foot right of way to Wharf No. 2 as described in deed to the Redondo Railway Company recorded in book 1322, page 12 of deeds, records of said county.

Parcel 2. That portion of the Rancho San Pedro in the city of Redondo Beach, county of Los Angeles, State of California, described as follows:

Beginning at the southwesterly corner of the 60-foot right of way conveyed to the Redondo Beach Railway Company by deed recorded in book 511, page 56 of deeds, records of said county; thence northerly along the westerly line thereof 4 feet; thence northerly along the easterly line of the land conveyed to the Redondo Hotel Company by deed recorded in book 1064, page 140 of deeds, records of said county to an angle point therein; thence northerly along the easterly line of the land so conveyed to the Redondo Hotel Company 143.3 feet to the northeasterly corner thereof; thence northerly along the easterly line of the land conveyed to the Redondo Railway Company by deed recorded in book 1070, page 75 of deeds, records of said county, 88 feet to an angle point therein; thence northerly along said last mentioned easterly line 100 feet to an angle point therein; thence northerly along the easterly line of the land so conveyed to the Redondo Railway Company 908 feet, more or less, to the northeasterly corner thereof; thence westerly at right angles 17 feet to the intersection of the westerly line of the aforesaid 60-foot right of way with the southeasterly line of the 30-foot right of way for spur track to the wharf as described in said deed recorded in book 511, page 56 of deeds; thence southwesterly along the southeasterly line of said spur track right of way to the mean high tide line of the Pacific Ocean; thence southerly along said mean high tide line to the westerly prolongation of the southerly line of the aforesaid 60-foot right of way; thence easterly along said westerly prolongation to the point of beginning.

Parcel 3. That portion of the Rancho San Pedro, in the city of Redondo Beach, county of Los Angeles, State of California, described as follows:

Beginning at the southeasterly corner of lot 136 of the Ocean Beach subdivision as shown on map recorded in book 2, page 35 of maps, records of said county; thence southerly along the westerly line of the 60-foot right of way conveyed to the Redondo Beach Railway Company by deed recorded in book 511, page 56 of deeds, records of said county to the intersection thereof with the northwesterly line of the right of way for spur track to the wharf as described in said deed; thence southwesterly along the northwesterly line of said spur track right of way to the mean high tide line of the Pacific Ocean; thence northerly along said mean high tide line to the northerly line of the 49-foot strip of land described in deed to the city of Redondo Beach recorded in book 5639, page 162 of deeds, records of said county; thence easterly along said northerly line to an angle point therein; thence continuing easterly along said northerly line 182.50 feet to the point of beginning.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this thirtieth day of March, 1927.

Decision No. 18141.

IN THE MATTER OF THE APPLICATION OF NATOMAS WATER COMPANY, A CORPORATION, FOR LEAVE TO ISSUE A NOTE FOR THE PURPOSE OF REFUNDING AN OUTSTANDING NOTE OF THE SAID CORPORATION.

Application No. 13596.

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Decided March 30, 1927.

SECURITIES—NOTE—TO ISSUE.—Applicant authorized to issue its promissory note in the amount of $92,000, payable in four years, with interest at 6 per cent per annum, to refund outstanding note.

Charles W. Slack, and *Edgar T. Zook*, for Applicant.

BY THE COMMISSION.

ORDER.

Natomas Water Company, a corporation engaged in the sale of water for domestic, irrigating and mining uses in the counties of El Dorado and Sacramento, having applied to the Railroad Commission for permission to issue to Natomas Company of California its promissory note in the principal amount of $92,000 payable on or before four years from the date thereof, with interest at the rate of 6 per cent per annum, for the purpose of refunding an outstanding note of like amount issued under authority granted by the Commission by Decision No. 10371, dated April 25, 1922 (Vol. 21 Opinions and Orders of the Railroad Commission of the State of California, page 622), and the Commission being of the opinion that this is a matter in which a public hearing is not necessary, and that the money, property or labor to be procured or paid for through such issue is reasonably required for the purpose specified herein, and that the expenditures for such purpose are not, in whole or in part, reasonably chargeable to operating expense or to income,

It is hereby ordered, that Natomas Water Company be and it hereby is authorized to issue a promissory note in the principal amount of $92,000, payable on or before four years from date thereof with interest at not exceeding 6 per cent per annum, for the purpose of refunding the outstanding note of like amount to which reference herein is made.

The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue of the note herein authorized and of the disposition of the proceeds as will enable it to file, within thirty days after such issue, a verified report, as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this thirtieth day of March, 1927.

DECISION NO. 18147.

EL DORADO WATER COMPANY, A CORPORATION,

vs.

WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, THOMAS H. GERLE, GRANT G. GERLE, AND HENRY REYNOLDS.

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Case No. 1712.

Decided March 30, 1927.

SERVICE—WATER UTILITY—MINING USE.—El Dorado Water Company directed to furnish water for mining use to applicants, Thomas H. and Grant G. Gerle, and Henry Reynolds. The Commission finds that in the absence of positive and convincing proof that no water is available to meet such application, service must be rendered.

I. W. Browne, for Complainant.
Chickering and Gregory, by *Walter C. Fox, Jr.*, for the Defendant Western States Gas and Electric Company.
H. E. Dillinger, for the Defendants Thomas H. Gerle, Grant G. Gerle and Henry Reynolds.

BY THE COMMISSION.

OPINION.

In this case the El Dorado Water Company, a public utility corporation selling water in and in the vicinity of Placerville, El Dorado County, alleges that under a certain contract with defendant Western States Gas and Electric Company it obtains its water supply; that under that contract it is under obligation to resist any and all applications for water for mining use on its system, and that defendants Thomas H. Gerle, Grant G. Gerle and Henry Reynolds have applied for a certain amount of water for such use. The Western States Company denies this Commission's jurisdiction as to such matter, and the other defendants renew their application for water.

Public hearing in this matter was first had before Examiner Gordon, subsequent to which correspondence was received from counsel for defendants Gerle, Gerle and Reynolds indicating that they might no longer desire said water. Letters from this Commission suggesting that, in view of this situation, the parties might request a dismissal hereof having met with no response, further hearing was had on February 11, 1927, before Examiner Wheat, at which time the application of defendants Gerle, Gerle and Reynolds for water for mining use was renewed, and the matter was submitted for decision, subject to the right of applicants for water to file certain receipts for such water delivered in past years, and to the right of the parties to file briefs if so advised. No such briefs have been filed, and the time having expired, this matter is now ready for decision.

As to defendant Western States Company, this matter is somewhat in the nature of an interpleader action seeking for an interpretation of certain terms of a contract heretofore passed upon by this Commission between complainant and this defendant. Defendant has taken the position that we are not empowered to render such an interpretative decision, and we are of the opinion that this position is correct. The courts, rather than this Commission, form the proper forum for such determinations as to the significance of water right and similar pro-

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visions in such contracts, and as to this defendant this complaint must therefore be dismissed.

Defendants Gerle, Gerle and Reynolds showed that the mine for the operation of which they now desire water service has, in times past, been given such service by the predecessor of this complainant. Rates for the sale of water for mining use by complainant are on file with this Commission, and in the absence of a positive and convincing showing that no water is available to meet such application we believe that this service should and must be rendered. Our order will therefore provide that complainant comply with the application of these several defendants and that it furnish water, at its filed rates, as so applied for.

ORDER.

Complaint having been made as above entitled against Western States Gas and Electric Company, a corporation, and Thomas H. Gerle, Grant G. Gerle and Henry Reynolds; public hearings having been had; the matter having been submitted for decision, and the Commission being fully advised in the premises; now therefore,

It is hereby ordered, that in so far as it has reference to or concerns defendant Western States Gas and Electric Company the said complaint be and the same is hereby dismissed; and

It is hereby further ordered, that complainant furnish to defendants Thomas H. Gerle, Grant G. Gerle and Henry Reynolds at its regularly filed rates such water for mining use as they, or either of them, may by application in proper form under its rules and regulations have made application for.

Dated at San Francisco, California, this thirtieth day of March, 1927.

DECISION NO. 18152.

GLOBE GRAIN AND MILLING COMPANY

vs.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, LOS ANGELES STEAMSHIP COMPANY, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, McCORMICK STEAMSHIP COMPANY, NELSON STEAMSHIP COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, PACIFIC STEAMSHIP COMPANY, SOUTHERN PACIFIC COMPANY, WHITE FLYER LINE, E. V. RIDEOUT COMPANY, ALAMEDA TRANSPORTATION COMPANY, BAY CITIES TRANSPORTATION COMPANY, BERKELEY TRANSPORTATION COMPANY, CALIFORNIA TRUCK COMPANY, LOS ANGELES JUNCTION RAILWAY COMPANY.

Case No. 2291.

IN THE MATTER OF THE SUSPENSION BY THE COMMISSION ON ITS OWN MOTION OF ITEMS NOS. 575, 580 AND 585, NAMING FREIGHT RATES FOR THE TRANSPORTATION OF BARLEY, CEREALS AND CEREAL PRODUCTS FROM SPERRY FLOUR COMPANY DOCKS, SOUTH VALLEJO, AND ALBERS BROS. DOCK, OAKLAND, TO LOS ANGELES AND LOS ANGELES HARBOR POINTS, AS PUBLISHED

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IN SUPPLEMENT NO. 1 TO PACIFIC COASTWISE FREIGHT TARIFF BUREAU LOCAL, JOINT AND PROPORTIONAL FREIGHT TARIFF NO. 1, C. R. C. NO. 1.

Case No. 2294.

Decided April 2, 1927.

RATES - STEAM RAILROAD—BARLEY—CEREAL PRODUCTS.—The Commission finds that the rates and minimum weights for the transportation of grain and grain products, brought into issue, are not unreasonable or unlawful; that rule 45 of Tariff C. R. C. 1 should be clarified, and that the rates published in items 575, 580 and 585 of supplement 1 to C. R. C. 1 discriminate against San Francisco. Carriers are ordered to publish joint rates from San Francisco and to eliminate the restrictions making the rates applicable only from the docks at South Vallejo and Oakland. Investigation in Case No. 2294 discontinued.

E. J. Forman, for Complainant.
E. L. Bissinger, for Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad Company, Los Angeles Steamship Company, Nelson Steamship Company, Pacific Electric Railway Company, Pacific Steamship Company, Southern Pacific Company, White Flyer Line, E. V. Ridcout Company, Bay Cities Transportation Company, Berkeley Transportation Company, Los Angeles Junction Railway Company.
Howard Robertson, for California Truck Company.
R. F. Burley, for McCormick Steamship Company.
Glenson, Clowe, Van Dine and Turcotte, by *F. W. Turcotte*, for Alameda Transportation Company.
C. S. Connolly, for Albers Bros. Milling Company, Intervener.
E. B. Smith, for Sperry Flour Company, Intervener.
C. A. Bland, for Long Beach Chamber of Commerce, Intervener.

BY THE COMMISSION.

OPINION.

These two proceedings, involving the same issue, were, by stipulation heard together and will be disposed of in one opinion and order.

The Globe Grain and Milling Company, a corporation, by complaint filed November 18, 1926, Case No. 2291, alleges (a) that defendants are parties and concur in Pacific Coastwise Tariff Bureau Tariff No. 1, C.R.C. No. 1; (b) that the rates and minimum weights published in items 280, 285 and 335 of said tariff, applicable on grain, flour and cereal products are unjust, unreasonable and in violation of section 13 of the Public Utilities Act; (c) that the minimum carload weight of 100,000 pounds published in item 335 is unjust, unreasonable and in violation of section 15 of the Public Utilities Act to the extent it exceeds 60,000 pounds; (d) that rule 45 governing the carload weights of said tariff is indefinite, ambiguous and unintelligible, therefore is unjust and unreasonable; (e) that the rates published in items 575, 580 and 585 of supplement 1 to said tariff, issued October 29, 1926, to become effective December 3, 1926, applicable on grain, grain products, flour and cereals from Albers Bros. Dock, Oakland, and Sperry Flour Company Dock, South Vallejo, to Los Angeles and Los Angeles harbor, are unduly preferential and advantageous to Albers Bros. Milling Company and Sperry Flour Company and subject complainant to undue

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prejudice and disadvantage and that said rates are in violation of section 19 of the Public Utilities Act to the extent they are less than the rates published in items 280, 285, and 335 of Tariff No. 1, C.R.C. No.1.

Applicant asked for an order suspending Pacific Coastwise Freight Bureau Tariff No. 1, C.R.C. No. 1, and Supplement No. 1 to said tariff.

Case No. 2294 was instituted November 27, 1926, on this Commission's own motion in response to the complaint in Case No. 2291, and Supplement 1 to Pacific Coastwise Freight Tariff Bureau Tariff No. 1, C.R.C. No. 1 was suspended. The rates, rules and regulations shown in Tariff No. 1, published October 29, 1926, effective December 1, 1926, are in compliance with this Commission's order in Application No. 13086, Decision 17506, of October 21, 1926, and since complainant herein had notice and ample opportunity to appear and be heard we are of the opinion and conclude that the tariff should not be suspended, but the reasonableness of the rates and rules in Case No. 2291 may be given further consideration. By this method shippers and carriers will not be deprived of the many adjustments authorized in Application No. 13086.

A public hearing was held before Examiner Geary at Los Angeles January 12, 1927, and the proceedings having been duly submitted are now ready for our opinion and order. Rates will be stated in cents per 100 pounds.

The rates in controversy apply between San Francisco, Oakland, Berkeley and Alameda on the one hand and on the other, Los Angeles, San Pedro, Wilmington and San Diego. They are lower to port points than to the city of Los Angeles, but as illustrative of the situation reference will only be made to the Los Angeles rates.

Item 280, rate 26½ cents, applies on whole and cracked grains, also to a long list of food products. Item 285, rate 30 cents, applies on flour and cereal food products, minimum weight 30,000 pounds, and item 335, rate 19½ cents, applies to a selected list of whole and cracked grains, with a minimum weight of 100,000 pounds.

Complainant made no effort and did not claim that any of the rates covered by these items were, *per se*, either excessive or unreasonable, its contention being that the minimum weights were not properly adjusted. Objection to the 30,000 pounds was mainly to the point that the practice had been to sell in 40,000 pound lots, but since the present minimum will not disturb the continuation of this trade practice and only permits a buyer to purchase in smaller quantities, we conclude this contention to be without merit.

Referring to the 100,000 pounds minimum, item 335, complainant maintains the tonnage can not be loaded into one car and rates can not be applied under the provisions of rule 45 of the tariff. This rule reads:

> Except where a minimum carload weight is specifically provided for herein, carload rates named herein are subject to the minimum carload weight provided

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in the current western classification, except that the minimum carload weight on a movement under joint through rates in connection with rail carriers, will be based on the size of car required for the rail haul.

Witness for complainant testified that the prevailing minimum weight for carloads of grain published in tariffs of rail carriers was 60,000 pounds and that 80 per cent of the cars furnished were physically impossible for the loading of 100,000 pounds.

We find that rule 45 as now constructed is unreasonable and ambiguous and should be clarified or entirely eliminated. If canceled from the tariff the cars furnished in connection with the steamer hauls should be governed by rule 34 of Consolidated Freight Classification, which protects the minimum carload weights when two cars are furnished in lieu of one car ordered.

The rates from South Vallejo and Oakland shown in items 575, 580 and 585 of supplement 1, apply:

1—Barley and oats;
2—Flour and cereal food preparations;
3—Grain and cereal feed products;

and are respectively 16, 19 and 20 cents to Los Angeles, and 11, 13, and 15 cents to Los Angeles harbor points. They are subject to a note reading:

Rates named in items 575, 580 and 585 above will apply only from Sperry Flour Company dock, South Vallejo, when the aggregate weight of shipment or shipments under one or more of the items named from South Vallejo is 200 tons or more and from Albers Bros. dock, Oakland, when the aggregate weight is 100 tons or more. Rates will not include wharfage or handling at South Vallejo or Oakland.

From South Vallejo they apply via direct vessel of McCormick Steamship Company or via Nelson Steamship Company or E. V. Rideout Company via San Francisco and Pacific Steamship Company.

Defendants' witness testified that the rates published in supplement 1 did not include wharfage and handling at the points of origin and that this service furnished by the shippers resulted in a saving of approximately 95 cents per ton to the steamship lines; that they were established to meet competition; that the rates correspond in a great many respects to milling in transit rates, inasmuch as all grain and grain products into Albers Bros. dock, Oakland, and Sperry Flour Company's dock, South Vallejo, are from California points via rail and river vessels and also from the Pacific Northwest via coastwise steamers.

Numerous comparisons with rates on grain and grain products from interior California points via all rail against the rail and water rate to Los Angeles, also rates on other heavy loading commodities via steamer to Los Angeles were offered by interveners to show that the rates under suspension were not unduly low.

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Prior to the effective date of Pacific Coastwise Freight Bureau Tariff No. 1 the defendants maintained a rate on grain of 15 cents, minimum weight 40,000 pounds, from San Francisco and Oakland to Los Angeles, and the evidence disclosed that complainant made only two carload shipments under this rate during the year 1926. The interveners forwarded large quantities of grain and flour from South Vallejo and Oakland to Southern California via steamers. An exhibit was presented showing that Sperry Flour Company shipped 7935 tons during the period December 1, 1925, to November 12, 1926, and Albers Bros. Milling Company 6270 tons during the period July 1, 1925, to December 1, 1926.

The testimony of witnesses for defendant steamer lines and the intervening milling companies was to the effect that the rates applying to minimums of 100 tons from Oakland and 200 tons from South Vallejo were reasonably compensatory, not prejudicial and as high as the traffic could afford to pay. The difference in minimums as between Oakland and South Vallejo was due to the extra expense in negotiating the longer trip to South Vallejo. It was shown there was heavy tonnage of grain from North Pacific points via steamer and that the tonnage moving from San Francisco Bay points to Los Angeles was loaded into vessels at the same time the northern grain was unloaded and that the shippers delivered the tonnage to ship's tackle, thus avoiding heavy stevedoring expenses to the steamer companies. The unit of tonnage via steamer lines is, in general practice, much greater than via rail carriers and tariffs on file show many grain rates between California points based on lots of 100 tons and over.

Upon all the facts of record we find that the rates and minimum weights for transportation of grain and grain products brought into issue in these proceedings are not unreasonable or unlawful. We further find that rule No. 45 of Tariff C.R.C. No. 1 is ambiguous and should be clarified, as outlined in this opinion, also that the rates published in items Nos. 575, 580 and 585 of supplement No. 1 to C.R.C. No. 1, discriminate against San Francisco and defendant carriers will be required to publish the joint rates from San Francisco, also to eliminate the restrictions making the rates applicable only from the named docks at South Vallejo and Oakland. The investigation in Case No. 2294 will be discontinued.

ORDER.

These cases being at issue upon complaint and answers on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had and the Commission having on the date hereof made and filed its opinion containing its findings of facts and conclusions thereon, which said opinion is hereby referred to and made a part hereof;

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It is ordered, that within twenty days from the date hereof the defendant carriers publish in tariffs changes in rule No. 45 and items 575, 580 and 585 in accordance with the suggestions made in the opinion hereto.

It is further ordered, that Case No. 2294 be and it is hereby discontinued.

Dated at San Francisco, California, this second day of April, 1927.

DECISION NO. 18154.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF SANTA CRUZ COUNTY TO CONSTRUCT A ROAD CROSSING UNDER THE TRACKS OF SOUTHERN PACIFIC COMPANY IN THE VICINITY OF APTOS.

Application No. 13109

Decided April 4, 1927.

RAILROAD CROSSING—STEAM RAILROAD—UNDER GRADE CROSSING—TO CONSTRUCT.—Concluding that before either the county or the railroad company is committed to a single solution of the problem, the relative merits of other methods of correcting the condition be given proper consideration. Application dismissed to permit the bringing of a comprehensive proceeding before the Commission.

David C. Clark, Deputy District Attorney, for Applicant.
F. W. Mielke and *George W. Smith*, for Southern Pacific Company.
H. J. Bias, for Seacliff Company.

BY THE COMMISSION.

OPINION.

This application, which is filed in the form of a viewers' petition as provided in section 2694 of the Political Code, proposes the construction of a public road underneath the track of Southern Pacific Company in the vicinity of Aptos. In accordance with the provisions of the Political Code, a public hearing was held in the rooms of the board of supervisors at Santa Cruz on September 28, 1926, before Examiner Austin.

The road covered by this petition is proposed as an alternate route for a short section of the main Santa Cruz-Watsonville highway through a recently developed subdivision known as Sea Cliff Park. This subdivision, which lies immediately west of Aptos Creek, fronts on Monterey Bay for a distance of a mile or more and extends back to the adjacent foothills. It is traversed by the Southern Pacific Company's Santa Cruz Branch in addition to the main county highway mentioned above, the railroad running approximately parallel to and a quarter mile distant from the shore line of the bay and the highway is still further inland. In approaching from Santa Cruz toward the easterly side of the Sea Cliff property in the vicinity of the road change proposed in this application, the main highway turns toward

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the shore line and approaches the railroad track at approximately a right angle and crosses the track under the west approach of the steel bridge carrying the railroad across the Aptos Creek ravine. Immediately after crossing under the railroad bridge the highway makes an extremely sharp curve to the left and crosses the creek on a wooden structure which is parallel and adjacent to but at a lower elevation than the railroad bridge. The highway continues along the southerly side of the track through the town of Aptos and thence easterly to Watsonville.

The dangerous curve at the undergrade crossing at Aptos Creek has been the cause of many accidents and several deaths. The creek banks at the end of the right-angled curve are steep and precipitous and vehicles failing to make the curve plunge over the bank which makes a sheer drop of forty or fifty feet to the bed of the creek. This highway carries a great deal of through travel and as the surrounding country has many beach and mountain resorts, much of this travel is unfamiliar with local hazards. For many years the county has considered the desirability of improving the highway alignment at this undergrade crossing. The necessity of renewing the timber bridge over Aptos Creek requires a solution of the problem in the very near future and as the manner and location of the railroad crossing has considerable bearing on the design of the new bridge, the county is anxious to arrive at some solution for improving the approach to the undercrossing.

The alternate route offered by the road proposed in the viewers' petition now before the Commission is one such solution. Under this plan, a new road would diverge from the existing highway at a point about 4000 feet toward Santa Cruz from the present undergrade crossing and would pass diagonally across the Sea Cliff Park holdings and under the railroad track at a point some 2000 feet west of the present crossing where topographical conditions appear favorable to the construction of a subway. From this new undercrossing, the road would turn through a curve of somewhat longer radius than the one at the present subway into a street of the Sea Cliff subdivision and parallel the track to a connection with the existing road in the vicinity of Aptos Creek. This plan is sponsored by the promoters of the Sea Cliff Park, who have offered to donate the right of way and perform the necessary grading and drainage work, the county to assume its share of the subway cost and to pave the road.

It is not proposed, however, to abandon the existing road between the termini of the new road and there appears to be considerable doubt that the existing route with its dangerous undergrade curved approach could be abandoned, although there is some evidence that another con-

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necting road could be constructed which might permit closing the crossing.

There appears to be a question in the minds of most of the witnesses in this proceeding as to whether this new road is the proper solution of the problem and at least two of the three viewers appointed by the county to inspect and report on the route of the proposed road stated that they believed a better method of improving the dangerous undergrade curved approach was possible.

A plan illustrating one such method was introduced at the hearing. This plan provides for a highway bridge crossing Aptos Creek under the railroad structure but at an angle of about thirty degrees. The present railroad span is of deck-truss construction, 125 feet in length, and in order to obtain proper clearance for the highway a through span of similar length would have to be substituted. No cost estimates of carrying out this plan are available from the present record, but the work would probably be quite expensive.

Although these two plans are the only ones which have been presented to the Commission, it may be that other plans of merit could be developed through thorough engineering study by the interested parties.

There can be but little doubt that a dangerous condition exists at the present undergrade crossing of the highway with the railroad track, and the Commission believes that some steps should be taken to afford relief. The instant proceeding is not one under which the Commission can proceed to grant authority to correct the conditions at this location as the matter at present before us is consideration of a viewers' petition seeking the action of the Commission prescribed in section 2694 of the Political Code and concerns merely the opening of a new road under the track in Sea Cliff Park. It appears, however, that the real issue is not so much the opening of this new road across the tracks as it is the correction of dangerous conditions at an existing crossing and that the present application covers but one suggested method of correcting those conditions. We believe that before either the county or the railroad company is committed to a single solution of the problem the relative merits of other methods of correcting the condition be given proper consideration. To that end, it is recommended that a comprehensive proceeding be brought before the Commission under which the Commission may be at liberty to determine what, if any, method of relief from the conditions complained of shall be carried out and to apportion the cost of such changes to the grade separation between the interested parties.

The present application will, therefore, be dismissed without prejudice, but if the interested parties do not, within a reasonable time, bring such a proceeding as outlined above before the Commission, or

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otherwise enter upon some means of relief, the Commission itself may on its own motion institute an investigation and make such orders as appear necessary.

ORDER.

The board of supervisors of Santa Cruz County, having filed with this Commission, under the provisions of section 2694 of the Political Code of California, a certified copy of a petition of freeholders of said county for the construction of a certain road, together with a certified copy of the order of the board of supervisors appointing viewers to view said road, which road crosses the track and right of way of Southern Pacific Company in the vicinity of Aptos, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision; therefore,

It is hereby ordered, that the above entitled proceeding be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this fourth day of April, 1927.

DECISION NO. 18157.

IN THE MATTER OF THE APPLICATION OF WATSON WATER COMPANY, A CORPORATION, FOR CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF THE FUNCTIONS OF A PUBLIC UTILITY ON THE PART OF THE APPLICANT FOR FIXING OF RATES AND FOR DISTRIBUTION OF STOCK.

Application No. 13351.

Decided April 4, 1927.

CERTIFICATE—WATER UTILITY—RATES—TO ESTABLISH.—Certificate granted to Watson Water Company to operate water system in the vicinity of Romola and Romola Farms Nos. 1, 2, 3, 4 and 5, and Trumble Farms. Rates for domestic, commercial and irrigation service established.

SECURITIES—STOCK—TO ISSUE AND SELL.—Applicant authorized to issue and sell at not less than par on or before August 1, 1927, $100,000 of common capital stock, and to use the proceeds to finance, acquiring or constructing water system and to pay indebtedness.

Raymond Best, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by Watson Water Company, a corporation, for a certificate of public convenience and necessity to supply water for irrigation and domestic purposes in and in the vicinity of Romola, Riverside County, for the establishment of a schedule of rates for such service, and also for authority to issue $100,000 of stock to its directors and incorporators or their assigns to pay in part moneys advanced by them and expended in constructing the plant which applicant intends to acquire.

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A public hearing was held in the above entitled proceeding before Examiner Williams at Riverside after all interested parties had been duly notified and given an opportunity to appear and be heard.

From the testimony it appears that this water system was installed for the purpose of furnishing water for domestic purposes to consumers residing in the unincorporated town of Romola and also to supply water for irrigation purposes to a tract of land containing approximately 2580 acres, and one other tract of 23 acres subdivided into one acre parcels. At the time of the hearing 1350 acres of the above larger tract had already been planted to vines and figs. In accordance with the present operating program the remaining acreage is expected to be completely planted by the end of March, 1927. Applicant also states that it intends to supply surplus waters and will extend permanent service to users of surplus waters provided sufficient demand therefor should exist and the necessary additional water supply can be developed.

In the organization of this water system several privately owned and operated water plants were consolidated and a new and complete distribution system was installed. The present available water supply consists of ten wells, five of which are now in operation and equipped with electrically driven deep well centrifugal pumps and one booster pumping plant. The five wells now in operation are producing at present 450 miner's inches of water, one miner's inch being the equivalent of 1/50 of a cubic foot per second.

The domestic system consists of approximately 6½ miles of standard screw pipe ranging in size from two to six inches in diameter. Delivery is made to consumers by gravity from a 10,000 gallon redwood storage tank. The irrigation system of distribution mains consists of approximately 19½ miles of concrete, riveted steel and vitrified tile pipe, the sizes varying from eight to sixteen inches in diameter. There are now being added to the irrigation distribution system 3½ miles of concrete mains from ten to fourteen inches in diameter.

An appraisement of the physical properties of this utility was made by D. H. Harroun, one of the Commission's hydraulic engineers, in which the estimated original cost amounted to $197,568, which included certain main and pipe line installations in course of construction at the time of the hearing, the final completion of which may reasonably be expected on or about the thirty-first of March, 1927. The depreciation annuity upon the above property was estimated to be $2,801, computed by the sinking fund method at 5 per cent.

In view of the fact that this system has not been placed in full operation, actual figures as to the costs of operation and maintenance were unavailable. Mr. Harroun estimated that the operating expenses for that part of the system in operation at the time of the investigation

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amounted to $11,488. However, the evidence indicates that when the entire system is placed upon an operating basis, which will be during the coming irrigation season, the operating costs will be in the neighborhood of $20,000. On an irrigation project as large as this the absence of data of actual operating costs and the lack of definite information on soil conditions and the duty of water required for the crops to be irrigated, makes it extremely difficult to determine at this time a rate which will be reasonable under the future conditions of delivery. The rate established in the order herein is based upon the evidence presented herein and the best information available as to the general costs of operating and the irrigation practice in the general vicinity. It should be understood therefore that the rate established herein is subject to such adjustment by further order of the Commission as may be necessary in case the actual application thereof should develop any unfairness either to the consumers or the applicant.

Applicant reports that it has an authorized stock issue of $100,000 divided into 1000 shares of the par value of $100 each. It also reports in its petition filed on November 29, 1926, that $109,446.40 had been expended to that date in constructing properties which it intends to acquire. Since then additional sums have been expended. It is of record that the $109,446.40 reported in the petition as having been expended was contributed by Alexander Hursh, T. Leo Watson, Ralph Watson, Floyd Watson, Joseph G. Watson and J. F. Wilson. It is of record that J. F. Wilson has acquired the interest of all those who contributed to the enterprise, except the interest of Alexander Hursh who has a 20 per cent interest. The $100,000 of stock which applicant now asks permission to issue will be used to pay in part advances by those who contributed moneys to pay the cost of constructing the water system.

ORDER.

Watson Water Company, a corporation, having applied to the Railroad Commission for a certificate of public convenience and necessity for the operation of a public utility water system to supply water for domestic and irrigation purposes to consumers in and in the vicinity of the town of Romola, in Riverside County, for the establishment of a rate for such service, and for authority to issue $100,000 of stock and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, that the purposes for which said stock may be issued are not in whole or in part reasonably chargeable to operating expenses or to income, the matter having been submitted, and the Commission being fully informed in the matter:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that

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Watson Water Company, a corporation, operate a water system for the purpose of supplying water for domestic, irrigation and other purposes to consumers residing in and in the vicinity of the town of Romola and in and in the vicinity of Romola Farms Nos. 1, 2, 3, 4 and 5 and Trumble Farms, as more particularly delineated upon the map filed in connection with this proceeding and designated as Applicant's Exhibit No. 4, which is hereby referred to and made a part of the order herein.

It is hereby ordered, that Watson Water Company be and it is hereby directed to file with this Commission within thirty days from the date of this order, the following schedule of rates to be charged for all water delivered on and after the first day of April, 1927:

Domestic Service.

Minimum Monthly Charges—

⅝ by ¾ inch meter	$1 25
¾ inch meter	1 75
1 inch meter	2 75
1½ inch meter	4 00
2 inch meter	6 00

Each of the foregoing "minimum monthly charges" will entitle the consumer to the quantity of water which the above minimum monthly charge will purchase at the following meter rates:

Monthly Meter Rates—

First 600 cubic feet or less	$1 25
600 to 2000 cubic feet, per 100 cubic feet	15
Over 2000 cubic feet, per 100 cubic feet	12

Monthly Flat Rates—

Residences	$1 50
Commercial service	1 50

Irrigation Service.

Per 100 cubic feet	2.3 cents

It is hereby further ordered, that Watson Water Company be and it is hereby directed to file with this Commission, for its approval, within thirty days from the date of this order, rules and regulations governing service to its consumers, said rules and regulations to become effective upon their acceptance for filing by the Commission.

It is hereby further ordered, that Watson Water Company be and it is hereby authorized to issue and sell at not less than par on or before August 1, 1927, $100,000 par value of common capital stock and use the proceeds to pay in part the cost of acquiring or constructing the water system referred to in this proceeding or pay indebtedness incurred because of acquiring or constructing said water system, provided that applicant may deliver said stock in payment of said indebtedness if said stock is accepted by applicant's creditors at not less than par.

It is hereby further ordered, that Watson Water Company shall keep such record of the issue, sale and delivery of the stock herein authorized

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and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that Watson Water Company be and it is hereby ordered to file quarterly with this Commission until relieved by further notice, a statement showing the gross revenues, operating expenses and depreciation charges for each such quarterly period.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourth day of April, 1927.

DECISION NO. 18159.

IN THE MATTER OF THE APPLICATION OF THE IMPERIAL VALLEY-LOS ANGELES EXPRESS FOR AN ORDER AUTHORIZING AN INCREASE IN RATES.

Application No. 13463.

Decided April 4, 1927.

RATES—AUTO TRUCKS—CLASS AND COMMODITY—TO INCREASE.—Applicant authorized to increase all class and commodity rates, with the exception of those applicable on butter, from Imperial Valley points. Monthly reports showing revenue and expenses required.

F. M. Hodge, for Applicant.
J. J. Deuel, for California Farm Bureau Federation and Associated Chambers of Commerce of Imperial Valley.
L. H. Wolters, for Golden State Milk Products Company.

BY THE COMMISSION.

OPINION.

This is an application filed by the Imperial Valley-Los Angeles Express, a corporation, for an order granting permission to increase class rates and commodity rates, with the exception of rates on butter, from Imperial Valley points to Los Angeles, by approximately 5 per cent. In the petition and as amended at the hearing, it is alleged that the adjustment sought is necessary because the net revenue derived from freight transported at the present rates is not sufficient to permit profitable operations.

A public hearing was held before Examiner Gannon at Los Angeles February 9, 1927, and the application having been duly submitted is now ready for an opinion and order.

The operative rights of applicant extend from Los Angeles harbor, Los Angeles, Pasadena, Anaheim and intermediate points to Oasis, Fish Springs, Kane Springs, Westmoreland, Brawley, Imperial, Holtville and Calexico.

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Applicant introduced a number of exhibits dealing with the present and proposed rates, the revenue received and the tonnage handled during the years 1925 and 1926, also a financial statement for the year 1926. This latter exhibit shows that the total operating expenses, including depreciation, were $166,728.54; total revenue received, $167,550.48, producing net earnings of $821.94. Subsequent to date of hearing applicant's books were audited by an accountant of the Commission's finance department and net revenue was reported as $2,562.74. The difference between the net revenue shown in applicant's exhibit and that shown on the statement prepared by the Commission's accountant is due to the fact that applicant had charged to operating expenses items consisting of interest, fines paid for violation of the traffic laws, loss by fire and loss on account of bad checks. Such items are not properly chargeable to operating expenses under the Commission's accounting system.

The total assets as of December 31, 1926, Exhibit 2, are given as $87,426.39; of this sum $62,020.89 is shown as investment in plant and equipment.

By its Exhibit 3, applicant shows a total of 7,017 tons handled during the year 1925, and 8,727 tons during the year 1926, with gross revenue of $138,816.43 and $167,800.10, respectively, an average rate per hundred pounds of 99 cents for the year 1925 and 96 cents for the year 1926.

Notwithstanding the substantial increase in tonnage during the year 1926 over the previous year, the net revenue decreased from $5,702.24 in 1925 to $2,562.74 in 1926, a reduction of $3,139.50. Witness for applicant attributed this decrease to the difference of 3 cents per 100 pounds in the average rate, to losses suffered during December, 1926, on account of washouts on the highways which caused cessation of operations for many days, and to diversion of certain classes of freight to contract carriers.

There was considerable testimony regarding the transportation tax of 5 per cent on gross revenue and the necessity for automobile truck companies providing funds to take care of this contingency. Witness for applicant stated it was not clear to auto companies the amount of tax payable for the year 1926; therefore they had set up an arbitrary amount for this expense. The detailed statement of operating expenses compiled by the Commission's accountant shows the sum of $2,157.34 for transportation taxes for the year 1926. Using as a basis gross revenue for the year 1926, the 5 per cent transportation tax would require $8,377.52, or $6,220.18, in addition to the amount set up in applicant's accounts for the past year's taxes.

There was testimony to the effect that certain charges were contemplated in the operation of new trucks which would reduce expenses

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and these reductions, together with the increased earnings derived from the proposed rates, would enable applicant to earn a reasonable return for the service performed.

On July 9, 1926, applicant voluntarily established reduced rates on fiber boxes, seed cabinets, cotton and cotton linters, hides, tallow, scrap metal and seeds, but these reductions did not reflect any satisfactory results in net revenue.

This witness also testified that the merchants in Los Angeles and many shippers and receivers located in the Imperial Valley had been interviewed, were informed of the proposed adjustment of rates, but no objections were offered.

At the hearing protestant representing the California Farm Bureau Federation and the associated Chambers of Commerce of Imperial Valley questioned the witness relative to reducing operating expenses, but made no direct protest against the granting of the application.

After giving consideration to the exhibits and testimony, and reviewing the reports and records for the years 1925 and 1926, we are of the opinion and find that the present rates do not produce sufficient net revenue to permit applicant to operate a satisfactory service and that the increase of 5 per cent in all rates, except those on butter, from the Imperial Valley, are justified and that the application should be granted.

In order that the Commission may be advised of the effect of the new rates applicant will file within fifteen days after the first of each month for a period of six months, a statement for the preceding month setting forth in detail the total revenue received, total operating expenses, and the net operating revenue, segregated in accordance with the Commission's system of accounting.

The proceeding will be kept open for a supplemental order should the actual results obtained under the new rates make such action necessary.

ORDER.

This application having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that Imperial Valley-Los Angeles Express, a corporation, be and it is hereby authorized to increase all class rates and commodity rates, with the exception of those on butter, from Imperial Valley points to Los Angeles, to the basis of those set forth in the application.

It is hereby further ordered, that the applicant submit to the Commission, on or before the fifteen day of each month, for a period of

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six months, a statement showing in detail the total revenue, total operating expenses, and net operating revenue, segregated in accordance with the Commission's system of accounting.

It is hereby further ordered, that this proceeding be held open for a supplemental order should the Commission deem further action necessary.

Dated at San Francisco, California, this fourth day of April, 1927.

DECISION No. 18160.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AS AGENT, FOR AN ORDER AUTHORIZING AMENDMENT OF ITEM RELATING TO DUNNAGE IN PACIFIC FREIGHT TARIFF BUREAU EXCEPTION SHEET 1-K AND CORRESPONDING ITEMS OF MEMBER LINES' TERMINAL TARIFFS NOT GOVERNED BY SAID EXCEPTION SHEET.

Application No. 13479.

Decided April 4, 1927.

RATES—RAILROAD—DUNNAGE ALLOWANCE.—Application granted.

A. L. Whittle, *H. W. Klein*, and *Berne Levy*, for Applicants.
A. S. Titus, for California White and Sugar Pine Manufacturers Association, Protestant.
A. Larsson, for California Redwood Association; California Pine Box Distributors, and Larsson Traffic Service Protestants.
C. S. Connolly, for Albers Bros. Milling Company.

BY THE COMMISSION.

OPINION.

This is an application filed by F. W. Gomph, as agent for and on behalf of Pacific Freight Tariff Bureau, Southern Pacific Company; Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad Company, Pacific Electric Railway Company, San Diego and Arizona Railway Company, Northwestern Pacific Railroad Company, Western Pacific Railroad Company, Sacramento Northern Railway, San Francisco-Sacramento Railroad Company and Sunset Railway Company seeking authority under section 63 of the Public Utilities Act to amend the rules governing dunnage allowance as provided in rule 55 of Pacific Freight Tariff Bureau Exception Sheet 1-K, C. R. C. 384, also item 970-A of Southern Pacific Terminal Tariff 230-I, C. R. C. 2826 and the corresponding items in the individual tariffs of the other applicants.

Interested shippers and consignees were notified of the proposed amendment to the rules in question and a public hearing was held March 7, 1927, before Examiner Geary. There were no witnesses in opposition to the proposed changes and the matter having been duly heard and submitted is now ready for our opinion and order.

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Item 970-A of Southern Pacific Terminal Tariff 230-I, C. R. C. 2826, which item is representative of the dunnage rules in question, provides to the effect that when the Southern Pacific Company receives the line haul from point of origin of a carload shipment it will furnish or will pay shipper the actual cost of dunnage, but not to exceed $2.50 per car under the following conditions:

(a) When two separate carload shipments are loaded in one car; or
(b) When the total weight of freight forwarded by one consignor on one day to one destination equals or exceeds double the minimum carload weight and is loaded into a less number of cars than necessary to obtain the same rate and charges that would obtain if loaded into a greater number of cars; or
(c) When the total weight of a single carload shipment is less than double the minimum carload weight and the transportation charge is based on the carload rate and double the minimum carload weight.

Rule 55 of Pacific Freight Tariff Bureau Exception Sheet 1-K and items of other carriers' tariffs provide to the same effect as does item 970-A previously referred to, except the rule in Pacific Freight Tariff Bureau Exemption Sheet 1-K is limited in its application to shipments of wine and brandy.

It is proposed to amend the aforementioned tariff rules to provide as follows:

DUNNAGE.

This company, when it receives a line haul direct from point of origin, or from interchange track with connecting line at point of origin, on shipments (except perishable freight, see note), in closed or stock cars, will furnish without charge additional dunnage *necessary* to load in *one* car.

(a) Two separate carload shipments.
(b) A single carload shipment weighing double the minimum carload weight or more.
(c) A single carload shipment weighing less than double the minimum weight when the transportation charge is based on carload rate and double the minimum carload weight.

Or will pay shipper for same on basis of actual cost but not to exceed $2.50 per car and weight of the additional dunnage used will be added to tare weight of the car.

Shipper *must specify on shipping order* the weight of the additional dunnage used, otherwise *no allowance* will be made.

The provisions of this item will not apply except where double minimum carload charge or more is assessed.

NOTE.—Perishable Protective Tariff No. 2 will apply on dunnage necessary to load perishable freight.

The present rule was first published in the year 1914 to encourage the loading of two carloads of freight in one car, thus conserving car equipment, and it is substantially similar to rules in effect in prior years. In its present construction it does not clearly express the purpose for which established, for if the total shipments of one consignor for one day equaled or exceeded double the minimum carload weights and were loaded in a less number of cars than required if shipped as separate carloads, then allowance for dunnage is claimed. As illustrative: If all the shipments made by one consignor on one day weighed 210,000 pounds were loaded into six cars, and moved under

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rates subject to minimum carload weight of 30,000 pounds, it is contended by certain consignors that the shipments having moved in less than seven cars allowance for cost of dunnage not to exceed $2.50 per car should be made.

It is obvious this is not the purpose of the rules and it is to correct this situation and clarify the tariff so that the same will express the intention of the publishers and effect the purpose for which the rules were established that the instant application was filed.

In Case No. 573, April 12, 1913, 2 C. R. C. 607-609, Commissioner Eshleman said:

> Tariffs should be clear and unambiguous, and when there is an ambiguity by reason of which a shipper has suffered, the carrier being responsible for the ambiguity should certainly be required to sustain the loss, but where, as here, the shipper shows no loss whatsoever and the construction sought is contrary to the plain intent of the tariff, I think such shipper should have no standing before this Commission.

The same principle holds good in this proceeding.

After full consideration of all the facts of record we are of the opinion and find that the proposed amendment is justified and reasonable and applicants should be authorized to publish the proposed rules.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order, which said opinion is hereby referred to and by reference made a part hereof:

It is hereby ordered, that applicants, F. W. Gomph, agent Pacific Freight Tariff Bureau, Southern Pacific Company, Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad Company, San Diego and Arizona Railway Company, Northwestern Pacific Railroad Company, Pacific Electric Railway Company, Western Pacific Railroad Company, Sacramento Northern Railway, San Francisco-Sacramento Railroad Company and Sunset Railway Company, be and they are hereby authorized to amend rule 55 of Pacific Freight Tariff Bureau Exception Sheet 1-K, C. R. C. 384; also item 970-A of Southern Pacific Terminal Tariff 230-I, C. R. C. 2826, and corresponding items of other applicants' tariffs, as set forth in the application.

Dated at San Francisco, California, this fourth day of April, 1927.

DECISION NO. 18161.

IN THE MATTER OF THE APPLICATION OF POMONA VALLEY TELEPHONE AND TELEGRAPH UNION, A CORPORATION, FOR AUTHORITY TO ISSUE STOCK.

Application No. 13529.

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Decided April 4, 1927.

SECURITIES—STOCK—TO ISSUE.—Applicant authorized to issue $66,040 of common capital stock, and application dismissed so far as it involves $33,960 of such stock.

R. H. Pitzer, for Applicant.

BY THE COMMISSION.

OPINION.

Pomona Valley Telephone and Telegraph Union asks permission to issue and sell at par $100,000 of its common capital stock and use the proceeds to pay notes and the cost of additions and betterments to which reference will be made hereafter.

Applicant owns and operates a telephone system in the cities of Pomona, La Verne and Claremont and in the unincorporated territory adjoining said cities, including the unincorporated towns of San Dimas, Spadra and Walnut in Los Angeles and San Bernardino counties. It also leases and operates the property of the Home Telephone and Telegraph Company which serves the city of Chino and surrounding territory in San Bernardino County.

The company has an authorized capital stock of $200,000 divided into 40,000 shares of the par value of $5 each. Stock in the amount of $100,000 is now outstanding. In addition to the outstanding stock the company reports outstanding $200,000 of bonds and $25,000 of notes. It is of record that the notes have been issued to pay construction expenditures and that it is the intention of the company to pay the notes through the use of stock proceeds.

The company reports that during 1926 its net construction expenditures amounted to $37,596.79. Its principal construction expenditures for 1927 are reported at $28,441.12 which, added to the $37,596.79 makes a total expenditure which has not been financed through the issue of stock amounting to $66,037.91. The $28,441.12 of estimated construction expenditures consists of the following items:

Cable, southwest Pomona	$5,657 68
Cable, N. Eleanor st., Pomona	3,283 44
Cable, southeast Pomona, $4,000 less replacements	3,000 00
Average telephone installations, 300 at $15	4,500 00
½ Claremont automanual extensions	4,000 00
La Verne cable N. D st.	1,000 00
Pomona switchboard 100 line extension	1,000 00
Underground conduit and cable	6,000 00
	$28,441 12

Representatives of applicant believe that it may be called upon during 1927 to incur additional expenditures. They were, however, unable to inform the Commission of the nature of such expenditures. They agree to place the proceeds obtained from the sale of stock over and above the $66,037.91 referred to herein in a special bank account and

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expend it only as hereafter authorized by a supplemental order or orders of the Commission. It occurs to us that as to the issue of $33,960 of stock the evidence does not warrant the Commission to make a finding that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant. We believe that this application in so far as it involves the issue of the $33,960 of stock should be dismissed without prejudice.

ORDER.

Pomona Valley Telephone and Telegraph Union, having asked permission to issue $100,000 par value of its common capital stock, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that applicant should be permitted to issue stock in the amount of $66,040 and this application in so far as it involves the issue of $33,060 of stock should be dismissed without prejudice and that the money, property or labor to be procured or paid for by the issue of stock herein authorized is reasonably required by applicant and that the purposes for which such stock may be issued are not in whole or in part reasonably chargeable to operating expenses or to income; therefore,

It is hereby ordered, that the Pomona Valley Telephone and Telegraph Union be and it is hereby authorized to issue and sell on or before December 1, 1927, at not less than par $66,040 par value of its common capital stock and use the proceeds obtained from the sale of such stock to pay the $25,000 of note indebtedness referred to in applicant's Exhibit No. 1, filed in this proceeding, to reimburse its treasury on account of earnings expended for additions and betterments and to pay the cost of constructing the extensions, additions and betterments and improvements described in said Exhibit No. 1.

It is hereby further ordered, that this application in so far as it involves the issue of $33,960 par value of common capital stock be dismissed without prejudice.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof and that applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this fourth day of April, 1927.

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DECISION No. 18162.

IN THE MATTER OF THE APPLICATION OF IMPERIAL UTILITIES CORPORATION, A CORPORATION, FOR A CERTIFICATE AUTHORIZING IT TO ISSUE AND SELL ITS BONDS IN THE TOTAL PAR VALUE OF $125,000.

Application No. 13539.

Decided April 4, 1927.

SECURITIES—BONDS—TO ISSUE AND SELL—Application granted.

Chapman and Chapman, by *L. M. Chapman*, for Applicant.

BY THE COMMISSION.

OPINION.

Imperial Utilities Corporation asks permission to issue and sell at not less than 90 per cent of their face value and accrued interest $125,000 of its first mortgage 6 per cent bonds due January 1, 1947, and use the proceeds to pay outstanding indebtedness in the amount of $71,500 and to pay the cost of new properties to which reference will hereafter be made.

Applicant is engaged in the business of furnishing water for domestic, irrigation and industrial uses in the unincorporated town of Wilmar, Los Angeles County; of furnishing water for domestic and railroad use in the incorporated town of Niland, Imperial County; of furnishing water for domestic, industrial use and fire protection in the incorporated town of Calipatria, Imperial County; of furnishing water for domestic, railroad use and fire protection in the incorporated town of Barstow, San Bernardino County, and of manufacturing and selling ice for railroad use in the town of Barstow, San Bernardino County.

Applicant has an authorized stock issue of $100,000, of which $50,000 is outstanding. It has no outstanding bonded indebtedness. The company does report, however, notes outstanding in the amount of $78,500 as of February 1, 1927. Of the outstanding notes $62,500, it appears, were issued to redeem $61,500 of bonds.

Applicant in its Exhibit No. 4, prepared by Olmstead and Gillelan, civil engineers, reports the present value (reproduction cost new less depreciation) of its operating properties exclusive of real estate, stock on hand, tools and movable equipment and its ice plant at Barstow, at $272,943.21, segregated as follows:

Water system at Barstow	$45,811 65
Water system at Niland	22,893 43
Water system at Calipatria	34,293 13
Water system at Wilmar	169,945 00
Total	$272,943 21

Applicant in its Exhibit "A" reports its investment in land at $12,500 and the depreciated cost of its Barstow ice plant, exclusive of

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land, at $16,450.17; adding the two amounts to the $272,943.21 makes a total of $301,893.38.

The number of services for December, 1927, at Wilmar are reported in applicant's Exhibit No. 4 at 1,554; at Barstow, 346; at Calipatria, 258, and at Niland, 25, making a total of 2183.

Applicant intends to acquire at a cost of $5,150 a 5000-barrel steel storage tank, now a part of its Wilmar Water System and a five-room frame cottage, built on company property and occupied by the superintendent of the Wilmar Water System. These improvements are now owned by L. M. Burntrager, applicant's principal stockholder. The record herein shows that applicant has need for the improvements and that the amount which it intends to pay for the same is a reasonable price. Applicant also intends to expend $80,400 for the extension and improvement of its water systems and the construction of a new ice plant at Barstow. The improvements in its water system are set forth in Exhibit "E" attached to the petition in this proceeding and aggregate a total of $39,900.

At Barstow the company intends to construct and equip an entirely new ice plant of twenty-two tons daily ice-making capacity and 300 tons storage capacity. The cost of the plant and equipment is reported at $40,000, to which should be added the cost of the land at $1,500, making a total estimated cost of $41,500. It is applicant's intention to sell the land on which its present ice plant is located to The Atchison, Topeka and Santa Fe Railway Company and use whatever moneys it realizes from the sale of such land to pay in part for the new ice plant.

Applicant asks permission to use the proceeds obtained from the sale of the $125,000 of bonds to pay $71,500 of notes (Exhibit "D") and to pay in part the cost of the new properties and improvements referred to in its Exhibit "E."

If we accept for the purpose of this proceeding the reported present value ($272,943.21) and add thereto the cost ($85,500) of the new properties and improvements, it makes a total of $358,493.21. This does not include any allowance for land or for materials and supplies.

For the two years and nine months ending September 30, 1926, applicant reports revenues and expenses as follows:

	1924	*1925*	*First nine months of 1926*
Revenues	$95,712 37	$103,013 35	$93,302 10
Operating expenses	71,863 90	62,042 13	52,782 90
Net revenue	$23,848 47	$40,971 22	$40,519 20
Depreciation	14,099 28	14,813 09	11,109 69
Operating profit	$9,749 19	$26,158 13	$29,409 51
Interest on bonds and notes	4,446 63	4,607 44	3,380 81
Net profit	$5,302 56	$21,550 69	$26,028 70

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Applicant has filed its Exhibit No. 2, a copy of its proposed mortgage and/or deed of trust which it asks permission to execute to secure the payment of an authorized bond issue of $350,000. We have reviewed this document, and believe that it should be modified in the following particulars. The form of the bond as well as the provisions of the mortgage and/or deed of trust should be modified so that the consent of the holders of at least 80 per cent in principal amount of the bonds outstanding instead of 75 per cent be required before any change in the form of the bond or deed of trust becomes effective. The instrument should contain a clause prohibiting any change in the maturity date of any bonds issued or any change in the interest rate or date on which interest becomes due and payable on bonds issued, unless such change be approved by holders of all the bonds issued and outstanding. A provision of the deed of trust, as it now reads, permits the issue of additional bonds subsequent to the issue of Series A in amounts equal to 75 per cent of the appraised value of the property acquired or to be acquired. This should be changed so as to permit the issue of bonds only up to 70 per cent of either the fair market value at that time or the actual cash cost to the company (whichever is less) of the property acquired or to be acquired. The sinking fund provision, article V, should be modified so as to give the company permission to use one-half of the annual sinking fund payments to construct additions and betterments to its properties. If any of the sinking fund payments are used for such purpose, provision should be made in the mortgage prohibiting the issue of any additional bonds against properties acquired, or constructed through the use of sinking fund moneys. Upon receipt of a revised copy of applicant's proposed mortgage containing the modifications herein indicated, the Commission will give further consideration to authorizing the execution of the proposed mortgage and/or deed of trust.

Applicant asks permission to sell its first mortgage 6 per cent twenty-year bonds at not less than 90, or on the basis of approximately 6⅔ per cent. In view of the record in this proceeding, we are of the opinion that applicant should obtain a better price for its bonds. The order herein will permit the issue and sale of such bonds at not less than 93 or on a basis of approximately 6⅔ per cent.

ORDER.

Imperial Utilities Corporation having asked permission to issue $125,000 of 6 per cent twenty-year bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such bonds is reasonably required by applicant and that the expenditures herein authorized are not in whole or

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in part reasonably chargeable to operating expense or to income; therefore,

It is hereby ordered, as follows:

1. Imperial Utilities Corporation may issue and sell at not less than 93 per cent of their face value and accrued interest, on or before August 1, 1927, $125,000 of 6 per cent twenty-year bonds and use the proceeds to pay the $71,500 of notes referred to in its Exhibit "D" and to pay in part the cost of acquiring and constructing the properties referred to in its Exhibit "D" and Exhibit "E."

2. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $125, and when the Commission has authorized applicant to execute a mortgage and/or deed of trust to secure the payment of said $125,000 of bonds.

3. Imperial Utilities Corporation shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this fourth day of April, 1927.

DECISION No. 18163.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA GAS COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ITS FIRST AND REFUNDING MORTGAGE SIX PER CENT GOLD BONDS OF THE PAR VALUE OF $105,000.

Application No. 13589.

Decided April 4, 1927.

SECURITIES—BONDS—TO ISSUE AND SELL.—Application granted.

Chickering and Gregory, by *W. C. Fox*, for Applicant.

BY THE COMMISSION.

OPINION.

Santa Maria Gas Company has applied to the Railroad Commission for permission to issue and sell, at not less than 97 per cent of face value and accrued interest, $105,000 of its first and refunding mortgage 6 per cent bonds due April 1, 1940, for the purpose of refunding in part the outstanding underlying bonds of Santa Maria Gas and Power Company which mature on April 15, 1927.

It is reported that under authority granted by the Commission by Decision No. 7708, dated June 9, 1920, Santa Maria Gas Company, applicant herein, acquired the properties of Santa Maria Gas and

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Power Company, subject to an outstanding bonded indebtedness of $128,000 consisting of first mortgage 6 per cent bonds due April 15, 1927. It appears that from time to time bonds were retired so that on December 31, 1926, $107,500 of the underlying bonds remained outstanding. These bonds, as shown above, fall due on April 15, 1927, and it is to provide a part of the money necessary to pay them that the present request is made to issue $105,000 of bonds. The record indicates that the difference between the proceeds derived from the sale of such bonds and the amount required to make payment on April 15, 1927, will be obtained from current funds on hand.

The bonds proposed to be issued are part of an authorized amount of $700,000 of first and refunding mortgage 6 per cent bonds due April 1, 1940. Bonds in the amount of $408,000 heretofore have been issued, of which $322,000 were delivered in part payment of certain properties acquired from Midland Counties Public Service Corporation and $86,000 were pledged to secure the payment of a promissory note for $82,000. The note since has been liquidated and the $86,000 of bonds returned to applicant's treasury. In addition, $106,000 of the $322,000 of bonds have been retired through the operation of the sinking fund, leaving $216,000 of applicant's bonds outstanding at the close of 1926.

At the hearing held in this matter R. E. Easton, applicant's secretary, testified that the holders of some of the underlying bonds now outstanding would exchange them for the bonds proposed to be issued, and that the company had made arrangements to sell such bonds as were not exchanged at 97 per cent of face value plus accrued interest.

ORDER.

Santa Maria Gas Company having applied to the Railroad Commission for permission to issue bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required for the purpose specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Santa Maria Gas Company be and it hereby is authorized to issue and sell, at not less than 97 per cent of face value plus accrued interest, $105,000 of its first and refunding mortgage 6 per cent bonds due April 1, 1940, and to use the proceeds to pay in part the bonds of Santa Maria Gas and Power Company which mature on April 15, 1927, or to exchange such bonds, or any portion thereof, for the bonds of Santa Maria Gas and Power Company on a basis so that applicant will realize not less than 97 and accrued interest for the bonds issued in exchange for bonds of Santa Maria Gas and Power Company.

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The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act.

Dated at San Francisco, California, this fourth day of April, 1927.

DECISION NO. 18164.

CITY OF FRESNO, A MUNICIPAL CORPORATION,

vs.

FRESNO TRACTION COMPANY, A CORPORATION.

Case No. 2187.

Decided April 4, 1927.

SERVICE—STREET RAILWAY—DEDICATION OF PROPERTY.—City of Fresno having asked for an order of the Commission to require Fresno Traction Company to establish and operate an extension of its lines to serve the Fink-Smith District, the Commission finds that defendant carrier has not dedicated its properties to service in that district, either by its acceptance of City Ordinance 964, or by any other act alleged in the complaint.

COMMISSION'S JURISDICTION.—In view of the foregoing, it is held the Commission has no jurisdiction to direct defendant to make the desired extension.

W. E. Simpson, for Complainant.
Everts, Ewing, Wild and Everts, by *D. S. Ewing* and *F. G. Everts*, for Defendant.

LOUTTIT, *Commissioner*.

OPINION.

The city of Fresno filed its complaint in this matter on October 23, 1925. It alleges therein that public convenience and necessity require that the defendant Fresno Traction Company construct, establish and maintain an extension of its transportation service in the city of Fresno for the purpose of affording transportation to the persons residing in the so-called "Fink-Smith District," a portion of the city of Fresno, comprising one hundred twenty-five blocks; that on the twenty-first day of May, 1925, the commission of the city of Fresno, by the unanimous vote of the members thereof, duly and regularly passed and adopted a certain Ordinance No. 1187 and entitled "An ordinance declaring that public convenience and necessity require the making of certain extensions of service by the Fresno Traction Company, a public utility, fixing the time, terms and conditions under which said extensions shall be made and requiring said Fresno Traction Company to make such extensions"; that on the sixteenth day of February,

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1922, the commission of the city of Fresno by the unanimous vote of all the members of the said commission duly and regularly passed and adopted a certain Ordinance No. 964, entitled "An ordinance granting unto the Fresno Traction Company a franchise to construct, equip, maintain, and operate a street railway along and across and upon certain streets, avenues, and highways of the city of Fresno, prescribing the terms, conditions and obligations thereof in resettlement and adjustment of existing franchises and rights and privileges now held and owned by it." Copies of ordinances Nos. 964 and 1187 were annexed to the complaint, made a part thereof, and marked Exhibits "A" and "C" respectively.

The complaint further alleges that after the adoption by the city of Ordinance No. 1187, notice of the adoption of said ordinance and a copy thereof were served on defendant corporation, Fresno Traction Company, and said corporation has failed, neglected, and refused and continues so to fail, neglect, and refuse to extend its street car system as required by the terms of said ordinance, or provide any transportation facilities whatsoever for the service of the residents of said Fink-Smith District; that prior to the filing of this complaint, the commission of the city of Fresno, by resolution duly and regularly passed and adopted, resolved that application be made by said city to the Railroad Commission of the State of California to require said defendant corporation to establish, maintain, and operate in the Fink-Smith District a transportation system to be approved by the Railroad Commission of the State of California for the purpose of providing transportation facilities for the residents of said district. The complaint contains no allegation to the effect that defendant company has accepted said Ordinance No. 1187.

It is the prayer of the city of Fresno in its complaint that an order be made by this Commission requiring said defendant corporation to establish, maintain, and operate over and along such streets as the Commission shall designate within said Fink-Smith District within said city of Fresno, a transportation system of such type as may be approved by this Commission, and under such rules and regulations as may be fixed by it.

The defendant Fresno Traction Company filed with the Commission its answer to the complaint and interposed several defenses. One of the defenses raised was directed at the jurisdiction of the Commission to grant relief sought in the complaint. It was alleged that the Commission was without authority to compel the defendant or any other street railway company to extend its lines into territory not theretofore served by it. It was the prayer of the defendant that the complaint be dismissed.

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The matter was set down for hearing on the jurisdictional question raised by the defendant, and a public hearing was held in the city of Fresno on October 25, 1926.

At said hearing counsel for the city argued in substance that the Commission was possessed of jurisdiction over the complaint by virtue of the provisions of ordinances Nos. 964 and 1187, above mentioned. Ordinance No. 964, subdivision 16 of section 2, provides in part that the city commission by an affirmative vote of four-fifths of its members may declare an extension of the service of the company to be a public necessity and call upon the company to make such extension, and upon its failure, within a reasonable time to be fixed by the Commission, to make such extension, the commission may make an application to the Railroad Commission asking for an order requiring that such extension be made. It is further provided that the matter of the reasonableness of such extension, and the terms thereof, shall be left to the jurisdiction and order of the Railroad Commission, and should said Commission order the company to make such extension, it shall be its duty to do so within a reasonable time. It was pursuant to these provisions of Ordinance No. 964 that this complaint was filed with this Commission.

We are of the opinion that this defendant street railway utility has not dedicated its properties to service in the so-called Fink-Smith District of the city of Fresno either by its acceptance of city Ordinance 964 or by any other act alleged in the complaint. If the position which we take is sound, it must follow that this Commission has no jurisdiction to direct defendant to make the desired extension (*Hollywood Chamber of Commerce* vs. *Railroad Commission* (1923), 192 Cal. 507). This Commission can not, of course, determine the question whether the city of Fresno possesses a cause of action to compel this extension in a court of law as a private contractual right.

ORDER.

The city of Fresno having filed with this Commission its complaint in this matter; the defendant, Fresno Traction Company, having challenged the jurisdiction of the Railroad Commission over the subject matter of the complaint; a public hearing having been held, and the question of the jurisdiction of the Commission having been fully argued by counsel, the Commission now being fully advised in the premises and being of the opinion that it is without jurisdiction to grant the relief desired by complainant;

It is hereby ordered, that the complaint in this matter, Case No. 2187, be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered

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filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of April, 1927.

DECISION No. 18165.

UNITED PARCEL SERVICE OF LOS ANGELES, A CORPORATION,

vs.

INTER-CITY PARCEL SERVICE, INC., A CORPORATION; S. B. COWAN, DOING BUSINESS UNDER THE NAME OF TRIANGLE ORANGE COUNTY AND SANTA ANA EXPRESS; L. R. KAGARISE, DOING BUSINESS UNDER THE NAME OF KEYSTONE EXPRESS; CITY TRANSFER AND STORAGE COMPANY, A CORPORATION; LOS ANGELES AND SAN PEDRO TRANSPORTATION COMPANY, A CORPORATION; RICE TRANSPORTATION COMPANY, A CORPORATION; T. C. ORVIS, DOING BUSINESS UNDER THE NAME OF LOS ANGELES AND COMPTON TRANSPORTATION COMPANY; BIRDIE M. MACEY, DOING BUSINESS UNDER THE NAME OF AUTO PACKAGE DELIVERY; TOLSON TRANSPORTATION SYSTEM, INCORPORATED, A CORPORATION; A. J. RICHARDSON, DOING BUSINESS UNDER THE NAME OF RICHARDSON TRANSPORTATION COMPANY; FRANK G. MATTHIESSEN, DOING BUSINESS UNDER THE NAME OF SAN FERNANDO HAULAGE COMPANY; SIERRA VAN AND STORAGE COMPANY, A CORPORATION; J. R. STADLER, DOING BUSINESS UNDER THE NAME OF S. AND M. TRANSFER; H. H. WALKER, DOING BUSINESS UNDER THE NAME OF WALKER TRANSFER AND STORAGE COMPANY; L. H. ZIMMERMAN AND A. F. ZIMMERMAN, A COPARTNERSHIP, DOING BUSINESS UNDER THE NAME OF ZIMMERMAN BROTHERS; R. V. HARDIE, DOING BUSINESS UNDER THE NAME OF GLENDALE INTERURBAN EXPRESS; ADAM BAKER, DOING BUSINESS UNDER THE NAME OF BELT LINE EXPRESS; FIRST JOHN DOE; SECOND JOHN DOE; THIRD JOHN DOE; FOURTH JOHN DOE; FIFTH JOHN DOE AND SIXTH JOHN DOE.

Case No. 2249.

Decided April 4, 1927.

TRANSPORTATION—AUTO TRUCKS—PARCEL SERVICE—ILLEGAL OPERATION.—Inter-City Parcel Service, Inc., and other defendants, directed to cease immediately illegal operation, or direction of operation, of service or of cars, not conforming to operations authorized by the Commission.

Devlin and Brookman by *Douglas Brookman*, for Complainant.
Warren E. Libby, for all Defendants, excepting Zimmerman Bros. and Sierra Van and Storage Company.

BY THE COMMISSION.

OPINION.

United Parcel Service of Los Angeles, Inc., a corporation, operating a transportation company in the carriage of property by auto truck, for compensation, in Los Angeles and adjacent territory under the authority contained in certificates of public convenience and necessity as heretofore granted by the Railroad Commission, complains of defendants and alleges:

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(1) That defendant Inter-City Parcel Service, Inc., was formed for the purpose of engaging in the business of a common carrier for the transportation by auto truck of parcels and packages of merchandise for compensation over the public highways of California between points within the city of Los Angeles and some 220 other points and communities outside the city of Los Angeles, and that said Inter-City Parcel Service, Inc., is now owned, controlled and operated by defendants, S. B. Cowan, L. R. Kagarise, City Transfer and Storage Company and/or its officers, Los Angeles and San Pedro Transportation Company and/or its officers, and Rice Transportation Company and/or its officers.

(2) That defendant, Inter-City Parcel Service, Inc., for many months last past has continuously and now is unlawfully holding itself out to the public as being engaged and is engaged in the business of a common carrier by auto truck of packages and parcels for compensation over the public highways between Los Angeles and 220 named cities, towns and communities; that said defendant has never applied for or received from the Railroad Commission a certificate of public convenience and necessity authorizing it to engage in said transportation business, or any portion thereof; and that said defendant is engaged in the transportation business in violation of chapter 213, Statutes of 1917, and amendments thereto, and without any legal authority.

(3) That all of the defendants herein, other than said Inter-City Parcel Service, Inc., are engaged in the business of transporting packages and parcels by auto truck, for compensation, under operative rights acquired either by virtue of operations conducted in good faith prior to May 1, 1917, or by certificates of public convenience and necessity heretofore obtained from the Railroad Commission; that there exists between defendant Inter-City Parcel Service, Inc., and each and all of the other defendants herein certain agreements and arrangements whereby Inter-City Parcel Service, Inc., is conducting a transportation business by auto truck in the carriage of packages and parcels for compensation over the routes included within the operative rights of each and all said other defendants herein, and under which said Inter-City Parcel Service, Inc., is unlawfully permitted by said other defendants, and by each of them, to operate the cars of each and all of said defendants between Los Angeles and each and all of the several cities and communities heretofore referred to; and that the result of said agreements and arrangements was designed to and has had the effect of unlawful leasing, joining and comingling of the operative rights of each and all of said defendants without authority therefor having been granted by the Railroad Commission and in violation of chapter 213, Statutes of 1917, and amendments thereto.

(4) That defendants, and each thereof, excepting Inter-City Parcel Service Inc., have published rates for the transportation of packages and parcels delivered to them by Inter-City Parcel Service, Inc.; that said defendants, other than Inter-City Parcel Service, Inc., are not complying with said rate schedule, are receiving parcels and packages from said Inter-City Parcel Service, Inc., for transportation in violation of said rate schedule and are being paid rates which are not in conformity with the published rate schedule but are in violation thereof; that each of said defendants is unlawfully giving to defendant Inter-City Parcel Service, Inc., rebates on transportation charges; and that all of such facts and practices are known, acquiesced in and abetted by defendant Inter-City Parcel Service, Inc., and the officers thereof.

(5) That said unlawful agreements and arrangements between defendant Inter-City Parcel Service, Inc., and each and every other defendant herein have been entered into in order to establish and provide a parcel delivery service covering all of the points served by the complainant and for the purpose of unlawfully competing with said complainant by reason of not securing from the Railroad Commission a certificate of public convenience and necessity as required by the statutory law; and that in conducting operations under said agreements and arrangements said defendants, and each of them, are unlawfully transporting parcels and packages for compensation to points beyond and not included within the operative rights possessed by said defendants, in violation of chapter 213, Statutes of 1917, and amendments thereto.

Complainant requests an investigation by the Commission into the matter set forth in the allegation and a finding that defendants herein, and each of them, is operating unlawfully and for an order directing

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said defendants, and each of them, to cease said unlawful operation and for such other and further order as to the Commission may appear just.

All defendants, excepting L. H. Zimmerman and A. F. Zimmerman, a copartnership doing business under the name of Zimmerman Bros., and Sierra Van and Storage Company, a corporation, filed their joint answer herein denying the material allegations of the complaint.

Public hearings on the above entitled complaint were conducted by Examiner Handford at Los Angeles, the matter was duly submitted upon the filing of brief by attorney for defendants and is now ready for decision.

Inter-City Parcel Service, Inc., is a California corporation organized under date September 16, 1925. The business of the corporation has been the collection and delivery of packages and parcels, originally in the city of Los Angeles, for the various carriers who are authorized to transport property by motor truck between Los Angeles and other points in southern California. The collection and delivery service handled parcels and packages between the point of shipment or delivery to the stations of the carriers, or to a central point at which carriers picked up or delivered shipments in connection with their operation over their authorized routes. Later the handling of packages and parcels was extended to a degree where the services and supervision of Inter-City Parcel Service, Inc., practically continued from original point of origin until the delivery of the shipment was accomplished at destination.

Agreements were made between the Inter-City Parcel Service, Inc., and certificated operators, some of which were reduced to writing, and the same conditions expressed in the written agreements were observed in the oral agreements and arrangements made with other certificated carriers. An agreement under date September 14, 1925, between Inter-City Parcel Service, Inc., and Robt. V. Hardie, proprietor of Glendale Interurban Express Company, filed herein as Complainant's Exhibit No. 2, is typical of the arrangement under which the handling of parcels and packages was to be cared for. The agreement provides briefly as follows:

1. Inter-City Parcel Service, Inc., to deliver to carrier at its terminal all packages collected within the city of Los Angeles which are destined to points on the route of the carrier.

2. That a terminal charge shall be paid by carrier to Inter-City Parcel Service, Inc., for each package or parcel.

3. That the Inter-City Parcel Service, Inc., shall have the exclusive right to collect shipments for the carrier within the City of Los Angeles, when such parcels (up to a weight of 150 pounds per package per delivery or shipment) are addressed to any destination on the line of carrier's authorized route, and the carrier agrees to file a rate schedule with the Railroad Commission "of nine (9) cents per package plus one (1) cent per pound for each pound weight or portion thereof, up to and including forty-one (41) pounds on quantities of packages, or more, delivered per

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day," which shall be the charge for the delivery of said packages by the carrier and which the Inter-City Parcel Service, Inc., agrees to pay.

4. Inter-City Parcel Service, Inc., agrees to deliver to carrier not less than ten packages or deliveries per day per shipment, exclusive of Sundays and holidays, and if such minimum number of shipments is not maintained, carrier may charge Inter-City Parcel Service, Inc., the regular tariff rate for the delivery to destination.

5. Carrier agrees to transport for Inter-City Parcel Service, Inc., all shipments included on its franchise route.

6. Carrier agrees to purchase or furnish to Inter-City Parcel Service, Inc., a proper package delivery car and at all times to keep said car in first class condition.

7. Carrier agrees to make a specified number of deliveries over the entire route as covered by its operative rights.

8. Neither party to the agreement is to be considered as the agent of the other party; nor either as a partner of the other, the agreement being made expressly for the purpose of entering into a private contract for the delivery of packages which are collected by Inter-City Parcel Service, Inc., to be shipped to destinations on the route of carrier.

9. Inter-City Parcel Service, Inc., is not bound to collect any and all packages which may be destined to points on the authorized routes of carrier, but Inter-City Parcel Service, Inc., agrees to cover the Los Angeles territory as efficiently as possible so that each and every shipper desiring to ship parcels and packages to points located on the route of the carrier will be satisfied with the service rendered by both parties to the agreement, and the Inter-City Parcel Service, Inc., will make every effort to collect every package within the city of Los Angeles that may be destined to points on the route of the carrier.

In the working out of arrangements and agreements between Inter-City Parcel Service, Inc., and the carriers operating routes from Los Angeles to adjacent territory the arrangement proposed by the form of agreement has been extended by the leasing of equipment. In some instances, the record shows, equipment units have been leased from a carrier and then operated over the line of such carrier, a charge being made on an hourly basis for the rental of the equipment during the time it was operated on the carrier's route, and an additional charge for the wages of the driver, said driver being employed by the Inter-City Parcel Service, Inc. From the evidence and exhibits filed herein it appears that it is the custom for Inter-City Parcel Service, Inc., to render a monthly accounting to each of the carriers participating in the foregoing arrangement, said account accrediting the carrier with the revenue accruing at tariff rates for the transportation of parcels and packages. Deductions are made for car rental, wages of drivers and a charge for terminal expense. The balance due the carrier, if any, is paid by monthly check but if no balance is due the carrier by reason of the expenses above outlined exceeding the revenue the carrier has not been required to meet the deficit, although the record is not clear as to whether it is the intention of Inter-City Parcel Service, Inc., to itself absorb these deficits or to have same remain as a charge against the carrier to be offset by future profits which may accrue under the continued operation under the existing arrangement.

S. B. Cowan, manager of Inter-City Parcel Service, Inc., testified that the corporation owned eight or nine trucks and leased three trucks.

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and that the corporation could delegate any particular truck to go over any route upon which a lease existed.

From the record herein it is apparent that the business of defendant Inter-City Parcel Service, Inc., has been established as that of a forwarding company, such company collecting packages and parcels in the city of Los Angeles and forwarding same to points and destinations in the vicinity of Los Angeles by the use of facilities now operated by existing carriers, which latter are subject to the jurisdiction of the Railroad Commission by the provisions of the statutory law. Rates are quoted by the Inter-City Parcel Service, Inc., to shippers which cover delivery to destination, and such company collects shipments in Los Angeles, transports same to either its warehouse at such point or to the Los Angeles terminal of other defendant carriers. Shipments are then transported to destination by said other defendant carriers usually under the parcel rates as appearing in published tariffs. Settlement of the carrier's charges under the tariff rates are made by Inter-City Parcel Service, Inc., and from the revenue accruing to the carrier under the published tariff rates there is deducted a terminal or pick-up charge for the service rendered by Inter-City Parcel Service, Inc., and also any charges which may have accrued for leased cars operating on the routes of the carriers and for the payment of driver's wages on such leased cars, which latter according to the record herein are advanced by Inter-City Parcel Service, Inc., for the account of the various carriers over whose lines the leased cars are operated. An illustration of the package rates under which Inter-City Parcel Service, Inc., ship consignments over the lines of authorized carriers is shown by the following extract from the Local Freight Tariff of Glendale Interurban Express, Robert V. Hardie, owner. (Supplement No. 4 to C. R. C. No. 3, issued June 2, 1926, effective June 5, 1926):

PACKAGE RATES—

Packages weighing 16 pounds, or less, each, in lots of 10 packages, or more, from one consigner to one or more consignees.

From Los Angeles (Terminal Depot) to all points shown in tariff: Rate—One (1) cent per pound plus nine (9) cents.

In the arrangements made for the transportation of packages and parcels with the defendant carriers covering service over their routes, Inter-City Parcel Service, Inc., and some of the other defendant carriers have exceeded the provisions and limitations contained in the Commission's General Order No. 67, which General Order provided for the leasing of equipment by automotive stage lines operating under the provisions of chapter 213, Statutes of 1917, and amendments thereto, and was effective August 1, 1923, said order reading, in part, as follows:

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It is hereby ordered, that all transportation companies as defined in chapter 213, laws of 1917, and amendments thereto, shall either own their equipment (proprietary control being deemed ownership) or lease such equipment for a specified amount on a trip or term basis, the leasing of equipment not to include the services of a driver or operator. All employment of drivers or operators of leased cars shall be made on the basis of a contract by which the driver or operator shall bear the relation of an employee to the transportation company by whom such operator or driver is engaged.

The practice of leasing equipment or employing drivers or operators on the basis of compensation on a percentage basis and dependent on the gross receipts per trip or for any period of time is hereby prohibited from the effective date hereof.

The so-called leasing of some of the equipment, as reflected by the record herein, has not been in accordance with the provisions of the Commission's General Order No. 67, as above referred to, in that drivers have not been employed on the basis of bearing "the relation of an employee to the transportation company by whom such operator or driver is engaged." Defendant carriers, other than defendant Inter-City Parcel Service, Inc., in some instances had little, if any, control over drivers who by the Commission's regulation are required to be employees of such carriers.

The Inter-City Parcel Service, Inc., neither owns nor controls any certificated operative rights, nor can such defendant in any manner participate in the operation of any route, the rights for which are held by any of the defendant carriers. We, therefore, conclude and hereby find as a fact that any control of operation over the routes of any of defendant carriers by operation of leased cars, or the employment of drivers thereon, by defendant Inter-City Parcel Service, Inc., is in violation of the provisions of chapter 213, Statutes of 1917, and amendments thereto and of the subsequent regulations of this Commission regarding the leasing of equipment. Violation of the Commission's regulations is also made by any of other defendant carriers who have participated in the car leasing arrangement and have permitted defendant Inter-City Parcel Service, Inc., to direct operation of cars over their respective lines.

Counsel for defendants in his brief contends, citing authorities in support thereof, that defendant Inter-City Parcel Service, Inc., is, in its operations, under the conditions herein at issue, a forwarding agent and not a common carrier and therefore not subject to the jurisdiction of this Commission in that such jurisdiction is restricted by the statutory law to the regulation of automotive transportation, as conducted over the public highways for compensation. The evidence and record herein sustain such contention as regards the evident intent of the incorporators of defendant Inter-City Parcel Service, Inc., and of the managing officials, but in the practical operation the status of a forwarding company has been exceeded to an extent making portions of the operation subject to the jurisdiction of the Commission as directed

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by the statutory law directing the Commission to supervise and regulate automotive transportation.

As regards the operative practices which require the regulation of the Commission, it is not proper to urge that if the actual operation of cars over the authorized route of a defendant carrier was delegated to defendant Inter-City Parcel Service, Inc., that it was still under the control of the authorized carrier through an agency relation when the contract or agreement, introduced in evidence as representative of the arrangements and agreement between Inter-City Parcel Service, Inc., and other defendant carriers (Complainant's Exhibit No. 2), contains an express provision

> That neither company shall be considered as the agent of the other, nor shall either company be considered as a partner of the other. * * *.

The showing of defendants as to the leasing of equipment and employment of drivers indicates that but little effort was made by defendants to observe the requirements of this Commission's General Order No. 67, as hereinabove referred to, and we are of the opinion and hereby find as a fact that violations of the terms of the Commission's General Order No. 67 have been made by defendant Inter-City Parcel Service, Inc., and other carrier defendants.

After full consideration of the record and the brief of counsel for defendants, we are of the opinion and hereby find as a fact that the complaint herein, in so far as it covers the matters of leasing of cars from and the direction of operation of cars by Inter-City Parcel Service, Inc., over the route, or routes, of defendant carriers, has been justified and the order herein will require the immediate discontinuance by defendants of such practices as are hereby found to be in violation of the provisions of chapter 213, Statutes of 1917, and effective amendments thereto.

In all other respects, the order herein will direct a dismissal of the complaint.

ORDER.

Public hearings having been held on the above entitled complaint, the matter having been duly submitted following the filing of brief by counsel for defendants, the Commission being now fully advised and basing its order on the statements, conclusions and findings of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that defendant Inter-City Parcel Service, Inc., a corporation, immediately cease all direction of routing of any cars, which may be leased by said defendant to any other defendant or defendants for operation by said carrier defendants over any route or routes for which said carrier defendants are authorized; that said defendant Inter-City Parcel Service, Inc., immediately cease the prac-

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tice of employing drivers for the operation of any car or cars leased by said defendant to any other carrier defendant or defendants and the payment of compensation to drivers while said drivers are employed in the operation of said leased cars in service on the route or routes of said carrier defendant or defendants; and

It is hereby further ordered, that as to all other defendants herein, excepting said Inter-City Parcel Service, Inc., that said defendants and each of them, hereafter operate all cars on their respective authorized route or routes in strict accordance with the regulations of this Commission which require that no vehicle shall be operated over the authorized route, or routes, unless such vehicle be owned by the authorized carrier or be leased by such carrier under a contract or agreement on a basis satisfactory to the Railroad Commission; that the terms of this Commission's General Order No. 67 regarding the leasing of equipment be hereafter strictly complied with in all respects; that employees on leased equipment used on operative lines of carrier defendants be employed directly by said carrier defendants; and that full direct supervision be hereafter exercised by said defendant carriers over the operation of their respective route or routes unless and until said carrier defendants, or any of them, will have secured written authority from this Commission for the lease or transfer of said operative rights as required by the regulations of this Commission; and

It is hereby further ordered, that as to other matters covered by the complaint herein, and as to all defendants as regards such other matters, this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this fourth day of April, 1927.

DECISION NO. 18166.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT CO., A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF CAPITAL STOCK.

Application No. 11996.
Decided April 4, 1927.

SECURITIES—STOCK DIVIDEND—TO ISSUE.—Applicant authorized to declare a stock dividend of $40,000, after reimbursing its treasury for surplus invested in equipment.

BY THE COMMISSION.

SECOND SUPPLEMENTAL OPINION AND ORDER.

In its supplemental petition filed in the above entitled matter on March 28, 1927, California Transit Co. asks the Railroad Commission to make an order authorizing it to declare a stock dividend and to deliver

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$40,000 of the stock authorized to be issued by Decision No. 16033, dated March 2, 1926, to pay the dividend.

By Decision No. 16033 the Commission authorized applicant to issue and sell, at par for cash, $210,000 of its common capital stock, provided that the proceeds received be placed in a special deposit and expended only for such purposes as the Commission might authorize in supplemental orders. Thereafter, by Decision No. 17831, dated December 31, 1926, being the first supplemental decision in this proceeding, the Commission authorized the use of $170,000 of such stock for the purpose of reimbursing the treasury on account of surplus earnings invested in property and equipment and thereafter of paying a stock dividend.

In support of the present request to use the remaining $40,000 of the stock authorized by Decision No. 16033, applicant reports that it has manufactured and placed in operation four new twenty-six-passenger stages at an aggregate cost of $40,000 which has been financed entirely through surplus earnings. Its surplus unappropriated, as of February 28, 1927, is reported at $388,001.15 and its reserve for accrued depreciation at $524,617.43.

We have given consideration to the supplemental petition and are of the opinion that applicant should be authorized to issue the $40,000 of stock for the purpose of reimbursing its treasury on account of surplus earnings invested in equipment. Applicant may distribute the stock as a stock dividend; therefore,

It is hereby ordered, that the order in Decision No. 16033, dated March 2, 1926, as amended, be and it hereby is further amended so as to permit California Transit Co. to use the remaining $40,000 of the stock authorized by said decision to reimburse its treasury on account of surplus earnings invested in equipment, provided that after such reimbursement applicant may, if it so desires, distribute the $40,000 of stock as permitted by law to its present stockholders as a stock dividend.

It is hereby further ordered, that the time within which California Transit Co. may issue such stock be and it hereby is extended to and including April 30, 1927.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof and that the order in Decision No. 16033, dated March 2, 1926, as amended, shall remain in full force and effect except as modified by this order.

Dated at San Francisco, California, this fourth day of April, 1927.

DECISION NO. 18167.

IN THE MATTER OF THE APPLICATION OF OJAI POWER COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE ADDITIONAL SECURITIES.

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Application No. 13537.
Decided April 4, 1927.

SECURITIES—STOCK—TO ISSUE.—Applicant authorized to issue $23,800 of common capital stock and to use the proceeds to pay the cost of extensions, additions and betterments. Application dismissed so far as it involves the issue of $800 of stock.

M. W. Phillips, for Applicant.

BY THE COMMISSION.

ORDER.

Ojai Power Company, a corporation, engaged in operating public utility electric and water properties in and about the city of Ojai, Ventura County, has applied to the Railroad Commission for permission to issue and sell at not less than par 246 shares of its common capital stock of the aggregate par value of $24,600. The company reports its estimated construction expenditures from January 1, 1927, to December 31, 1927, at $24,550. The estimated expenditures consist of the following items:

Electric Department.

Matilija Springs Extension	$4,000 00	
Glencoe Ranch Extension	1,350 00	
Wheeler Springs Extension	2,900 00	
Pirie Ranch Line	1,500 00	
50 new lighting consumers	2,500 00	
30 new heating consumers	7,500 00	
4 new power consumers	2,000 00	
New franchises	575 00	$22,325 00

Water Department.

50 new water consumers	$1,500 00	
Lowering of pump and motor	500 00	
New franchises	225 00	2,225 00
Total		$24,550 00

It is of record that the company's present franchises refer to specific roads and highways and do not cover newly constructed roads and highways. The company is now applying for three new franchises. The estimated cost of the franchises is reported at $800, such cost covering the bid for the franchises and attorney's fees. We believe before the company can exercise any rights and privileges which it may obtain under the new franchises, it must file with this Commission an application for permission to exercise such rights and privileges and be granted permission to do so. Inasmuch as the company has not yet obtained its new franchises; has not filed with this Commission an application for permission to exercise the rights and privileges under such franchise and has not furnished us with a detailed statement of the actual expenditures incurred in connection with the acquisition of the franchises, we believe we should not authorize it to issue any stock

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to acquire new franchises. The amount of stock which the company will be permitted to issue should therefore be reduced to $23,800.

A public hearing in this matter was held before Examiner Fankhauser. The Commission has given consideration to the company's request and is of the opinion that the money, property or labor to be procured or paid for through the issue of the $23,800 of stock was reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expense or to income; therefore,

It is hereby ordered, that the Ojai Power Company be and it is hereby authorized to issue and sell on or before December 1, 1927, at not less than par $23,800 par value of its common capital stock and use the proceeds to pay the cost of the extensions, additions and betterments, other than the new franchises, referred to in this order.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof and that applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that this application in so far as it involves the issue of $800 of stock, be dismissed without prejudice.

Dated at San Francisco, California, this fourth day of April, 1927.

DECISION No. 18177.

IN THE MATTER OF THE COMPLAINT OF V. L. HAYNES AND FAY HAYNES, OPERATING AN AUTOMOBILE FREIGHT LINE BETWEEN FRESNO AND HANFORD AND OTHER POINTS.

vs.

HARRY C. MACFARLANE.

Case No. 2257.

Decided April 6, 1927.

TRANSPORTATION—AUTO TRUCKS—ILLEGAL OPERATION.—Harry C. MacFarlane directed to discontinue immediately operation of auto trucks between Fresno and Hanford, until he has obtained a certificate from the Railroad Commission authorizing such operation. District attorneys of Fresno and King counties notified of said illegal operation.

G. L. Agnesworth, for Complainant.
Sidney J. W. Sharp, for Defendant.

BY THE COMMISSION.

OPINION.

V. L. Haynes and Fay Haynes, operating as a copartnership in the transportation of property by motor truck between Hanford and

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Fresno, via Laton, under the authority conveyed by this Commission's Decision No. 12765 on Application No. 9409, as decided October 27, 1923, complain that defendant Harry C. MacFarlane is operating an auto freight line between Fresno and Hanford without having secured authority from the Railroad Commission; that such operation is conduced for compensation; that on six occasions shipments were transported by defendant from Fresno to Hanford; that for a long time defendant has been regularly engaged in the hauling of freight as a common carrier between Fresno and Hanford for the Lacey Milling Company; and that complainants' right to carry freight between Fresno and Hanford is being interfered with in that business, and profits therefrom, which would accrue to complaints is being handled by said defendant. Complainants pray for an investigation of the complaint and an order preventing defendant from operating as a public carrier and from interference with the operative rights of complainants.

Defendant duly filed his answer to the complaint denying the specific allegations therein contained and alleging that no solicitation of freight hauling had ever been made in the cities of Fresno and Hanford; that defendant's hauling was not confined to the route between Fresno and Hanford but that hauling was done between many and various other points; and that defendant was engaged in a general trucking business, hauling on a ton basis only.

Public hearings on this complaint were conducted by Examiner Handford at Fresno and Hanford, the matter was duly submitted and is now ready for decision.

R. A. Winzler, district manager at Fresno for Lacey Bros. Milling Company, testified defendant had hauled freight from Hanford to Fresno for his company, principally full truck and trailer loads of feed and flour. The hauling has been done at irregular intervals, sometimes every day, and has been performed entirely on a ton basis.

A. D. Willis, manager of sales department of Haas Bros., receives orders from Rosenthals' Sales Store at Hanford, orders being presented by defendant who received the merchandise and transported same to Hanford.

Lee A. Rummelsburg, assistant manager for Kutner-Goldstein Company of Fresno, occasionally receives orders for truck load lots of grain from their branch store at Hanford, the grain being hauled by defendant under arrangements made with the Hanford branch store.

H. D. Rowell, assistant manager of Hobbs-Parsons Company, wholesale produce merchants of Fresno, testified his concern had shipped merchandise to Hanford by defendant's truck, shipments being destined to Rosenthals, Inc., and Gallaher's Market. The shipments consisted of

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goods for which orders were taken by salesmen, the orders specifying that shipments were to be made over defendant's truck line.

F. L. Farrell, traffic manager for San Joaquin Grocery Company, of Fresno, testified defendant did no hauling for his concern, all arrangements being made by consignees. Orders for goods are brought to witness' firm by truck driver, the goods are delivered to driver and charges for transportation are paid by consignees. Goods have been so delivered for points in Hanford, principally for Gallaher's Market, Liberty Candy Company, and a customer named Vail. Shipments to Gallaher's Market have totaled 37,775 pounds for the three months period ending February 28, 1927.

Frank Pinkard, manager of the Terminal Warehouse Company at Fresno, testified defendant had hauled some goods to Hanford for the Bomberger Seed Company, a tenant of the warehouse. Witness has record of one shipment of 1350 pounds, which was hauled on February 1, 1927. Defendant had never solicited any hauling from this witness.

Geo. H. Rogers, a witness called on behalf of defendant, testified he was formerly the agent for the Stewart Fruit Company in Kings County; and that on account of inability to secure delivery of a rush shipment of shook and fruit baskets from Fresno he secured the services of defendant who performed the hauling to Hanford, no other local drayman being available and the need for the shipment being urgent.

W. C. Gallaher, a witness called on behalf of defendant, testified that he operated a market in Hanford; that defendant had hauled for witness who sends him to Fresno and other points with orders for merchandise, which defendant procures and transports to Hanford; that hauling is only done when orders are given him; that the price is usually fixed on a hundred-weight basis although occasionally witness has employed defendant on a trip basis; and that there have been times when defendant's service has not been available.

H. W. Campbell, a witness called on behalf of defendant, testified that he was the office manager for the Lacey Milling Company at Hanford; that defendant had hauled to his company's warehouse at Hanford from Corcoran, Stratford, Helm, Huron and from intermediate ranches; that all hauling was paid for on a tonnage basis; and that all hauling, excepting grain, was from Hanford to the Lacey Milling Company's plant at Fresno. The witness stated his company operated their own fleet of trucks and had used the service of defendant to supplement their own transportation units, defendant having been used by the Lacey Milling Company for over a year, giving satisfactory service to the extent of the company being able to dispense with the services of one of their own trucks and defendant's service being available at any time.

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F. M. Douglas, a witness called on behalf of defendant, testified he was employed by the Rosenthal Sales Company at Hanford; that defendant had hauled goods for his concern from Fresno to Hanford, orders being given defendant which were filled by Fresno merchants and the goods brought to Hanford by defendant's truck; that all hauling was done on a tonnage basis; that defendant had never solicited the transportation; and at times could not be found when hauling was to be done.

Harry C. MacFarlane, testifying in his own behalf, stated that he owned one truck and one trailer; and that he had been in the trucking business about 14 months, first hauling for the Lacey Milling Company between Hanford and Fresno. Witness does not confine his hauling to the route between Fresno and Hanford, citing instances of hauling between Grangeville and Los Angeles, furniture from near Tulare to Los Angeles and from San Francisco to Hanford, grain bags from San Francisco to Helm, mill feed from Corcoran to Shafter, fruit from Hanford to Visalia; Y. M. C. A. boys and their baggage from Lake Sequoia to Hanford, furniture from Hanford to Arroyo Grande, brick from Exeter to Hanford, grain and mill feed from Corcoran to Hanford, and boxes, grapes, green and dried fruit from ranches to Armona and Hanford.

Witness states he had never solicited any hauling, has had no occasion so to do as all his hauling has been at the request of his patrons; that he goes wherever his patrons may direct, hauling entirely on a ton or load basis; that he has refused to haul anything unless he has an order from his patrons; that he has hauled for two or more patrons at the same time; that he at times has had a back-haul for other patrons than those for whom the initial load was hauled; and that he has refused small shipments, both as regards between Fresno and Hanford and between other points.

From the record in this proceeding it appears that defendant in his trucking operations serves all points where his services may be desired by his patrons, Hanford by reason of being the location of applicant's business being usually the point to or from which shipments are handled. In connection with this general operation defendant has done a considerable volume of business between Fresno and Hanford, and it is against such business that complaint is made by an authorized carrier operating under certificate of public convenience and necessity as issued by this Commission. The volume of business handled between Fresno and Hanford, which defendant has not operated regularly but only as directed by his patrons, has been sufficiently frequent to bring the operation under the jurisdiction of the Commission. Defendant contends that his hauling has not been secured by any solicitation on his part, but that he has only transported freight between Fresno and Han-

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ford at the request of his patrons, and then only when he had orders to pick up shipments at Fresno or Hanford and transport same to destination. The character of service as given by defendant is outlined by his answer to a question of his counsel, as follows:

> Question: Who else do you haul for?
> Answer: Anyone who desires me to haul for them.

The operations heretofore conducted by defendant in the carriage of property between Fresno and Hanford are those of a "transportation company" as such is defined in section 1, paragraph (c) of the Auto Stage and Truck Transportation Act (chapter 213, Statutes of 1917, and effective amendments), in the following language:

> The term "transportation company," when use in this act means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing, any automobile, jitney bus, auto truck, stage or auto stage used in the business of transportation of persons or property, or as a common carrier, for compensation, over any public highway in this state between fixed termini or over a regular route, and not operating exclusively within the limits of an incorporated city or town or of a city and county; * * *

Section 5 of the foregoing statutory enactment provides, in part, that

> No transportation company shall hereafter begin to operate any automobile, jitney bus, auto truck, stage or auto stage for the transportation of persons or property, for compensation, on any public highway in this state without first having obtained from the railroad commission a certificate declaring that public convenience and necessity require such operation. * * *

After full consideration of the evidence and record in this proceeding, we conclude and hereby find as a fact that the operation heretofore conducted by defendant Harry C. MacFarlane, between Fresno and Hanford has been that of a transportation company in the carriage of property, for compensation, over the public highway between said termini, and for which operation no certificate of public convenience and necessity has been granted by this Commission.

ORDER.

Public hearings having been held on the above entitled complaint, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusion and finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that defendant Harry C. MacFarlane be and he hereby is directed to discontinue immediately the transportation of property by auto truck, for compensation, over the public highway between the termini of Fresno and Hanford, and to perform no further service as a transportation company in the carriage of property, for compensation, between said termini until said defendant will have procured a certificate of public convenience and necessity from this

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Commission as required by the provisions of chapter 213, Statutes of 1917, and effective amendments thereto; and

It is hereby further ordered, that the secretary of this Commission be and he hereby is directed to forward, by registered mail, a certified copy of this order to the district attorneys of Fresno and Kings counties.

The effective date of this order is hereby fixed as twenty days from the date hereof.

Dated at San Francisco, California, this sixth day of April, 1927.

DECISION NO. 18178.

IN THE MATTER OF THE APPLICATION OF FOOTHILL DITCH COMPANY FOR PERMISSION TO SELL, AND OF LINDSAY-STRATHMORE IRRIGATION DISTRICT FOR PERMISSION TO PURCHASE THE DITCH, RIGHT OF WAY, WATER RIGHT AND APPURTENANCES FORMERLY KNOWN AS THE POGUE, WALLACE AND CROCKER DITCH.

Application No. 12557.

Decided April 6, 1927.

TRANSFER—WATER UTILITY—TO SELL.—Holding that it would not be in keeping with public policy and not to the best interest of present consumers of Foothill Ditch Company and the public generally to authorize the transfer of that utility to interests wholly beyond the jurisdiction and control of the Commission, when such interests have shown no present unquestioned ability to use the existing ditch system and facilities for the conveyance of water to lands within the boundaries of the irrigation district, the Commission dismisses the application.

D. E. Perkins, for Foothill Ditch Company.

W. G. Irving, and *Power and McFadzean* by *M. E. Power*, for Lindsay-Strathmore Irrigation District.

H. B. McClure, for Wallace Ranch Water Company.

H. B. McClure and *Karl A. Machetanz*, for W. T. Doellemyer et al., consumers of Foothill Ditch Company.

H. A. Savage, for Geo. C. Roeding Company and certain consumers of Foothill Ditch Company.

W. R. Bailey and *Farnsworth, Burke and Maddox*, for U. D. Switzer as Receiver of Wutchumna Water Company et al. and for: Harry J. Ginner, J. E. Hester, Tulare Irrigation District, Lakeside Ditch Company, Consolidated Peoples Ditch Company, Packwood Canal Company, Tulare Irrigation Company, Visalia and Kaweah Water Company, Mathews Ditch Company, Jennings Ditch Water Company, Uphill Ditch Company, Modoc Ditch Company, Elk Bayou Ditch Company, Farmers Ditch Company, Fleming Ditch Company, Oaks Ditch Company, Evans Ditch Company, Watson Ditch Company, Persian Ditch Company, Mineral King Fruit Company.

Lee M. Olds, for California Fertilizer Works.

BY THE COMMISSION.

OPINION.

The Foothill Ditch Company, a corporation, applicant in the above entitled matter, is engaged in the public utility business of distributing water for irrigation purposes to certain water users near the town of Exeter, in Tulare County, and asks the Railroad Commission for

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authority to transfer its utility property to the Lindsay-Strathmore Irrigation District, which joins in the request.

The application alleges in effect that the owner of the entire stock of the Foothill Ditch Company is the Merryman Fruit, Land and Lumber Company, a corporation, which also owns lands receiving water for irrigation purposes from the Ditch Company; that it is the desire of both companies to sell this public utility property for a consideration of $75,000; that the proposed purchaser is an irrigation district, duly organized and existing under the laws of the State of California, including within its exterior boundaries approximately 16,000 acres of land, of which 14,000 are irrigable; that about 9000 acres of these lands are now planted to citrus orchards and require irrigation in order to produce crops; that the present water supply of the district, which is obtained by pumping from wells located in the Rancho de Kaweah, is inadequate and insufficient to irrigate all of the lands susceptible of irrigation within said district; and that in order to obtain an additional supply of water said district desires to acquire the Foothill Ditch Company's canal to carry to the district lands water the rights to which it has acquired in the Kaweah River through the purchase on its behalf of stock in various mutual water companies diverting water from the said Kaweah River. It is further alleged that at present the district is pumping water from the Rancho de Kaweah under a suspended injunction pending final decision of the Supreme Court of this state, and that should the district be permanently enjoined from pumping said waters, the only remaining possible source of water supply for the irrigation of the lands within the district would be through the diversion of water from the Kaweah River at the intake of and through the canal belonging to the Foothill Ditch Company. The Commission therefore is requested to authorize the transfer of this ditch system to the Lindsay-Strathmore Irrigation District.

The water users of the Foothill Ditch Company filed a protest against the proposed sale, alleging that this is one of the oldest ditches along the Kaweah River, that its point of diversion with one exception is the highest on the river, and that the Foothill Ditch Company's right to divert nine cubic feet of water per second from the river is second only to the prior right of the Wutchumna Ditch Company (Wutchumna Water Company), a mutual water company, to divert the first 63.4 cubic feet per second of water flowing in said river; that the flow of the river is sufficient to permit the diversion of the full nine cubic feet per second during the greater portion of the year; that the Foothill Ditch Company is also entitled to divert surplus water from the river whenever the flow reaches a certain stage, and that this surplus water, amounting to six cubic feet per second, more or less, has been diverted and used by the consumers of said Foothill

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Ditch Company and when not so used has been spilled into a small water course flowing through the consumers' lands and known as Yokol Creek, from which it seeps into the ground and replenishes the underground water supply, which it is alleged is an important factor in maintaining the production of the wells necessary to supplement the ditch water; that the consumers have enjoyed an almost continuous irrigation service by reason of the fact that the Kaweah River during the fall months has not a sufficient stream flow to enable the Wutchumna Ditch Company to make practical use of its prior diversion rights enabling the Foothill Ditch Company to appropriate and use all of the water in the Kaweah River during such periods; that while the company has the right to divert the water from the river the water so diverted actually belongs to the consumers, and that therefore the sole function of the Foothill Ditch Company is to divert, transport and distribute the water for the consumers. It is further alleged that under the jurisdiction of the Railroad Commission the consumers are assured continued good service at reasonable rates, together with a proper safeguarding of their interests, but in case the transfer as proposed herein is authorized, future service will be upon a contractual basis, subject to the will of the district, and in cases of disagreement final settlement will probably be dependent upon court action; that the interests of the district are now and will be to acquire all water possible for use upon the lands within its boundaries, which will result in the loss to the consumers of the surplus waters and the waters of the Kaweah River during periods of low flow, as well as the loss of the waters formerly spilled into Yokol Creek, all of which rights and advantages heretofore enjoyed are of great value and a necessity to the consumers. It is further alleged that this transfer will plunge the consumers into the bitter and costly litigation which has been in progress between the district and the Kaweah Delta water users for ten years last past and is still in progress and may involve the consumers in future interruption and interference of service and serious loss and damage through acts of violence several of which it is alleged have already occurred.

This protest further sets out that the district has been enjoined by superior court order from diverting any water whatsoever from the Kaweah River, which includes the waters of the Foothill Ditch Company, and therefore at this time would be unable to operate this system and deliver water to the consumers except in violation of law. Wherefore the Commission is requested to deny this application at least until such time as the Lindsay-Strathmore Irrigation District has finally established its rights to divert water from the Kaweah River.

Protest was also filed by U. D. Switzer as receiver of the Wutchumna Water Company and twenty other protestants including Tulare

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Irrigation District, and certain ditch companies, private individuals and corporations diverting water from and/or claiming certain rights in or dependent upon the stream flow of the Kaweah River. In addition to certain matters also set forth in the above protest filed by the Foothill Ditch Company water users, these protestants allege that the proposed sale of this utility would be contrary to the interest of the protestants; that the purchase of the Foothill Ditch by the Lindsay-Strathmore Irrigation District will be ultra vires and not within the powers of an irrigation district; that any diversion of water by the district into the Foothill Ditch from the Kaweah River will be illegal and in contempt of the judgments and the orders of the superior court of the county of Tulare; that any attempted diversion by the district will tend to bring about interminable confusion and litigation over the administration and distribution of water from the Kaweah River and its lower branches; that the claimed rights of the district are in conflict and opposition to the adjudicated rights of the Foothill Ditch Company and its consumers and will tend to bring about strife and dissension over the administration of the Foothill Ditch if controlled or operated by the district. These protestants set forth certain facts taken from the findings of fact of the superior court of the county of Tulare in an action entitled *Tulare Irrigation District et al., plaintiffs,* vs. *Lindsay-Strathmore Irrigation District,* wherein it is adjudged and decreed that the district has not acquired any water rights as against the plaintiffs and interveners therein, certain of which are also protestants in this proceeding, and that the district is not entitled to pump or divert any water from the Kaweah River or any of its branches, or from the Rancho de Kaweah, except for riparian uses upon its riparian lands of the Rancho de Kaweah, subject to the prior rights of each plaintiff to said action.

It is further alleged that although the district has been enjoined by temporary restraining order issued by the superior court of Tulare County from diverting any waters whatsoever from the Kaweah River through and by means of the Foothill Ditch, nevertheless the district now desires to convey through this ditch waters the only right to which it holds as lessee of stock owned by one H. R. Huebert in the Wutchumna Water Company and other mutual ditch companies, which it is alleged in effect is contrary to the articles of incorporation of the Wutchumna Water Company and in violation of the rights of the stockholders of said ditch companies and is now and will be resisted by them to the full extent of the law. Protestants therefore pray that this application be denied.

Wallace Ranch Water Company, a corporation, also filed a protest alleging that it is the owner of and has the right to divert three cubic feet of water per second from the Kaweah River, and also has a right to

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have this water conveyed free of charge through the Foothill Ditch to certain lands served by protestant, upon which lands said water has been put to beneficial use for more than twenty years last past; that by reason of the litigation between the district and the owners of the ditches taking water from the Kaweah River, any attempt on the part of the district to conduct water through the Foothill Ditch will involve protestant's rights and make it a party to the litigation and will interfere with and prevent said protestant Wallace Ranch Water Company from furnishing the amount of water which the lands it serves are entitled to; that the district's interest will be to deliver water to its own lands, rather than to protestant; and that in case the district is permitted to divert Wutchumna water through the Foothill Ditch, said district will claim a prior right to said water by reason of the priority of said Wutchumna's water rights and the protestant would thereby be deprived of the water which it has heretofore received during the period of low flow of the Kaweah River. The Commission therefore is asked to deny this application.

Public hearings in this proceeding were held before Examiner Satterwhite at Visalia, after all interested parties had been duly notified and given an opportunity to appear and be heard.

The Foothill Ditch Company was incorporated April 23, 1914, by the Merryman Fruit Land and Lumber Company, both concerns being controlled by R. C. Merryman. Through authority of this Commission issued in its Decision No. 2308, dated April 20, 1915 (6 C. R. C. 678), the above ditch company acquired that certain ditch system known as the Pogwe, Wallace and Crocker Ditch from Rosa S. Spaulding, who prior to this time had operated the property as an individual delivering water to several consumers under contract. This ditch has an adjudicated right to nine cubic feet of water per second of the waters of the Kaweah River diverted at a point called Terminus Beach, near Exeter in Tulare County, and supplies the water by gravity to consumers for agricultural, and to a limited extent for domestic purposes. This water right is claimed to be second only to the prior right of the Wutchumna Water Company to divert the first 63.4 cubic feet of water per second from the river. In addition to this the Foothill Ditch Company has the adjudicated right to take certain amounts of surplus water when the river reaches certain established stages. Six of the above nine second-feet is diverted for the Foothill Ditch consumers, the other three being an independent water right belonging to the Wallace Ranch Water Company, a mutual concern, which under agreement is diverted by the utility and conveyed through its ditch where it is delivered to the mutual company for use upon the lands of its stockholders. It is claimed that this three second-feet of water, together with certain surplus waters, has been diverted through the Foothill Ditch and put to

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beneficial use upon the lands of the above stockholders for more than twenty years last past.

Rates were established on this system upon application of the Foothill Ditch Company in Decision No. 2309, dated April 20, 1915 (6 C.R.C. 680), and again in Decision No. 9759, decided November 17, 1921 (20 C.R.C. 835), at which time the estimated original cost of the properties was shown by the evidence to be approximately $68,500. In Decision No. 3763, decided October 4, 1916 (11 C.R.C. 542), this Commission authorized the Foothill Ditch Company to sell to the Lindsay-Strathmore Irrigation District the lower section of its present canal and right of way for a consideration which among other things was sufficient to enable the company to replace the section of canal sold with a concrete pipe line by means of which service was continued to its consumers. A more detailed description of this water system, its history and methods of operation, may be found in the above decisions of the Commission.

According to the evidence the Lindsay-Strathmore Irrigation District includes a total area of 15,262 acres, of which last irrigation season 9,692 acres were planted to citrus trees principally but included some vines and other crops as well. The present water supply has been obtained since 1918 by pumping from certain lands which have been acquired by the district in the Rancho de Kaweah. The amount of water secured from this source is claimed by the representatives of the district to be insufficient for the needs of the lands already under irrigation within its boundaries and wholly inadequate to permit extension of proper service to its remaining irrigable lands.

The majority of individuals, ditch companies and corporations appropriating water from the Kaweah River and generally referred to as the Kaweah Delta water users, have contended that by reason of the location of the district's well field in the Rancho de Kaweah, which is riparian to the above stream, the extraction therefrom of the large quantities of water by the district has seriously reduced the volume and flow of water in the river and depleted the available underground waters, and has seriously interfered with their rights heretofore enjoyed, to the great damage of their properties. This controversy, as well as others arising out of efforts on the part of the district to secure rights to appropriate water from the Kaweah River, has resulted in very bitter and extensive litigation. In an action recently brought by the Tulare Irrigation District jointly with sixteen ditch companies and certain other delta water users, the superior court of Tulare County granted an injunction permanently enjoining the Lindsay-Strathmore Irrigation District from pumping any more water from the Rancho de Kaweah. However, by agreement this injunction was suspended pending appeal therein to the Supreme Court of this state.

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In order to provide a water supply for its lands in case the above judgment is sustained, the district has caused to be purchased for and in its behalf certain shares of capital stock in some seventeen, more or less, mutual water companies diverting water at various places from the Kaweah River and the St. Johns River and their tributaries. The St. Johns is a branch of and really a part of the Kaweah River. Although in most instances the shares of stock represent but a minority interest in the above mutual companies, it is the plan of the district to change the points of diversion of so much of the water as it may be entitled to by reason of the above stock, and to combine all such diversions at the intake of the Foothill Ditch, by means of which water may be conveyed by gravity to its own lands through its low level canal. This canal was at one time a continuation of the present Foothill Ditch and is the section formerly acquired from the Foothill Ditch Company.

To this end an agreement was entered into by and between the Foothill Ditch Company and the district, under date of January 20, 1926, wherein the company agreed to convey to the district its utility properties, rights and interests for a consideration of $75,000, payable in annual installments of $5,000 up to the first day of January, 1929, at which time the unpaid balance of $60,000 is due and payable. The agreement provides, among other things, that the district will defend and pay for the costs of any and all actions brought against the Foothill Ditch Company by reason of the diversion of any water from the Kaweah River through the Foothill canal, and also that in case the district is permanently enjoined by any court of competent jurisdiction from diverting water through the Foothill Ditch or in case its electors or directors fail to authorize or provide the funds for the installments, then said district will not be required to complete the transaction and the property will thereupon revert to the company. This agreement also makes rather indefinite and uncertain provisions for the district to continue the supply of water to the Foothill Ditch Company's consumers, setting forth that the district upon taking control and possession of the ditch will thereafter administer the same subject to the rights of the present consumers and those parties entitled to flowage rights therein.

It is clear from the evidence that while the Foothill Ditch Company as a corporation holds the rights by appropriation to divert certain quantities of water from the Kaweah River, depending upon the stage of the river and the rights of other appropriators, yet upon diversion the title to such waters lies in the water users themselves. This situation was brought about through the sale to land owners located along the ditch, by the predecessors in interest of the present company, of water rights in the waters appropriated upon the basis of one miner's

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inch of water to each four, and in some cases five acres. This company therefore does not own the water after diversion, but acts rather in the capacity of a common carrier of waters for parties who have vested interests therein.

The pleadings already set out above in considerable detail show quite clearly the main grounds of protest and the principal contentions advanced by the various conflicting interests appearing in this case. The protests entered by those parties other than the actual users of the water delivered by the Foothill Ditch Company indicate collateral interests only and are directed mainly to the possibility of future interference with their water rights and other interests, to the possible disrupting of the present system of river administration and to the possibility of extensive water right litigation should the transfer of this utility property be granted.

The chief concern of the water users themselves lies in the possible loss of the advantages which they have enjoyed heretofore in obtaining excess and surplus waters by reason of the strategic location of the headworks of the Foothill Ditch, which with one minor exception is located further upstream than any other ditch diverting water from the Kaweah River. As previously stated, the Wutchumna Water Company has a prior right to divert the first 63.4 second-feet of water from the Kaweah River. However, as this company can make little if any practical use of the water when the stage of the river falls as low as six second-feet at its diversion, it has permitted the Foothill Ditch Company to use this water at such times. This practice in the past has assured the Foothill Ditch Company users a normal supply of water at a time when it was most needed. The users fear that this friendly relationship with the Wutchumna Water Company is likely to be terminated if the district operates the ditch, as this company undoubtedly will join with the other ditch companies on the river in maintaining their rights against the district, with the result that the water users will be deprived of a water supply which they have heretofore enjoyed. The water users also claim that under the jurisdiction of the Railroad Commission their present service is assured at reasonable rates without discrimination, while under control of the district their rates will immediately be increased and in cases of disputes or disagreements the water users will have no remedy other than recourse to the courts, with its attending delays and heavy expense.

For the past ten years there has been almost continuous litigation over water rights and the use of water by the district. The record shows that some time prior to the submission of this proceeding an action was brought in the superior court of Tulare County by certain water users and other interests seeking to enjoin the district from diverting any water from the Kaweah River through the Foothill

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Ditch. From the documentary and other evidence presented in this case, it is clear that the right of Lindsay-Strathmore Irrigation District to divert or use any of the water from the Kaweah River or the St. Johns River or any of their branches or tributaries, either through or by means of the Foothill Ditch or any other ditch, is the subject of litigation now pending in the courts. It appears therefore that it would not be in keeping with public policy and not to the best interests of the present consumers of the Foothill Ditch Company and the public generally to authorize the transfer of this utility to interests wholly beyond the jurisdiction and control of the Commission when such interests have shown no present unquestioned ability to use the existing ditch system and facilities for the conveyance of water to the lands situate within the boundaries of the irrigation district. It follows that this application should be dismissed without prejudice to either of the applicants herein.

ORDER.

Foothill Ditch Company, a corporation engaged in the public utility business of delivering water for irrigation purposes to certain water users located in the vicinity of the town of Exeter, in Tulare County, having made application to transfer its properties, rights and interests to Lindsay-Strathmore Irrigation District, which joins in said application; public hearings having been held thereon; the matter having been submitted, and the Commission being now fully informed and advised;

It is hereby ordered, that the above entitled application be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this sixth day of April, 1927.

DECISION NO. 18179.

CITY OF SONORA, A MUNICIPAL CORPORATION OF THE STATE OF CALIFORNIA.

vs.

TUOLUMNE COUNTY ELECTRIC POWER AND LIGHT COMPANY, A CORPORATION.

Case No. 2289.

Decided April 6, 1927.

RATES—ELECTRIC UTILITY—FAIR RETURN.—Finding that defendant company earned approximately 18.9 per cent on a fair rate base during 1926, the Commission establishes rates estimated to bring in a return approximately eight per cent.

Tobias M. Wilzinski, City Attorney, and *Rowan Hardin*, for the City of Sonora.
C. H. Grayson, District Attorney, for Intervener County of Tuolumne.
Edwin L. Forster, for Defendant.

WHITSELL, *Commissioner*.

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OPINION.

This proceeding is an investigation into the electric rates of Tuolumne County Electric Power and Light Company initiated upon complaint of the city of Sonora.

Tuolumne County Electric Power and Light Company was organized in 1896 and now supplies electricity for power and lighting service in the city of Sonora and in the towns of Columbia, Jamestown, Stent, Quartz, and in adjacent and intervening territory. All electric energy is purchased from Pacific Gas and Electric Company at Sonora. The rates of this company have been formally before the Commission upon two occasions in 1913 and 1921, since which latter time they have remained undisturbed.

Hearing in the present matter was held at Sonora March 8th, testimony being introduced and the matter being submitted for decision. An estimate of historical reproduction cost was introduced by Wm. M. McKay, of the Commission's engineering department, this estimate being accepted by all parties. The following table gives the value of the properties as appraised by Mr. McKay:

TABLE 1.

Historical Reproduction Cost Appraisal, Tuolumne County Electric Power and Light Company as of December 31, 1926.

Acct. No.		*Total*
301	Organization	$1,000 00
302	Rights of way	800 00
343	Distribution structures	495 00
344	Distribution substation equipment	838 00
346	Distribution poles, towers and fixtures	32,833 00
347	Distribution overhead conductors	15,242 00
350	Line transformers	10,494 00
351	Services	5,415 00
352	Consumers meters	14,053 00
353	Miscellaneous distribution equipment	7,061 00
357	Street lighting equipment	6,340 00
382	Communcation system equipment	1,619 00
	Grand total	$96,190 00

S. S. Bloom, of the Commission's engineering department, testified on operating revenues and expenses, rate base and rate return. Mr. Bloom's testimony is summed up in the following tables:

TABLE 2.

Electric Revenue, Tuolumne County Electric Power and Light Company.

	1926 Actual	*1927 Estimated*
Lighting, Sonora	$30,439 00	$32,870 00
Lighting, ouside Sonora	16,428 00	15,240 00
Heating and cooking	2,398 00	2,590 00
Power	6,601 00	7,130 00
Street lighting	2,346 00	2,530 00
Totals	$58,212 00	$60,300 00

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TABLE 3.

Operating Expenses, Tuolumne County Electric Power and Light Company.

	1926 Actual	*1927 Estimated*
Purchased power	$13,527 00	$14,900 00
Superintendence	4,440 00	4,560 00
Maintenance and repairs	4,195 00	4,460 00
Salaries and expenses general officers	904 00	910 00
Law	500 00	500 00
Other general expenses	7,113 00	7,200 00
Insurance	768 00	770 00
Taxes	5,477 00	6,000 00
Depreciation	2,397 00	2,600 00
Uncollectible bills	275 00	300 00
Totals	$39,596 00	$42,200 00

TABLE 4.

Rate Base and Rate of Return, Tuolumne County Electric Power and Light Company.

	1926 Actual	*1927 Estimated*
Average fixed capital	$91,600 00	$100,700 00
Materials and supplies	3,700 00	3,700 00
Working cash	3,200 00	3,200 00
Rate base	$98,500 00	$107,600 00
Net for return	$18,616 00	$18,100 00
Rate of return	18.9%	16.8%

It appears from the above that present rates, if continued in effect, would result in more than a fair return. A return upon the properties of this company in the territory served and under the conditions of service rendered of approximately 8 per cent would be, in my opinion, reasonable.

I recommend the following form of order:

ORDER.

The Railroad Commission of the State of California having, upon complaint of the city of Sonora, made an investigation into the electric rates of Tuolumne County Electric Power and Light Company, public hearing having been held, the matter being submitted and being now ready for decision:

The Railroad Commission hereby finds as a fact that the electric rates of Tuolumne County Electric Power and Light Company are unjust, unreasonable and discrimatory in so far as they differ from the electric rates hereinafter set forth which are declared to be just and reasonable rates. Basing its order upon the foregoing finding of fact and the findings of facts contained in the opinion preceding this order;

It is hereby ordered,

1. That Tuolumne County Electric Power and Light Company be and it is hereby authorized to charge and collect, effective for all meter readings taken on and after the fifteenth day of April, 1927, the

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schedule of rates set forth in Exhibit "A," said exhibit being attached hereto and made a part hereof.

2. Tuolumne County Electric Power and Light Company file with this Commission on or before April 15, 1927, the electric schedule of rates herein authorized.

3. Tuolumne County Electric Power and Light Company submit to the Commission on or before June 30, 1927, a plan satisfactory to the Commission for the adjustment of its reserve for accrued depreciation and for accounting to such reserve for yearly depreciation annuities, together with interest at 6 per cent upon the amount in the reserve at the end of each calendar year.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of April, 1927.

EXHIBIT "A."

SCHEDULE L-1.

General Lighting Service.

Applicable to general domestic and commercial lighting service, including household appliances and single phase service to motor loads of not to exceed three horsepower capacity.

Territory.

Applicable within the incorporated limits of Sonora.

Rate.

First	10 k.w.h. or less per meter per month	$1 00	
Next	40 k.w.h. per meter per month	06	per k.w.h.
Next	150 k.w.h. per meter per month	05	per k.w.h.
Next	800 k.w.h. per meter per month	04	per k.w.h.
Next	2,000 k.w.h. per meter per month	03	per k.w.h.
All over	3,000 k.w.h. per meter per month	02½	per k.w.h.

Special Conditions.

Single phase motors of an aggregate capacity of three horsepower or less may receive service or may combine with general lighting service under this schedule of rates at the option of the consumer, provided, in case of combination service, the total energy is supplied through one meter.

SCHEDULE L-2.

General Lighting Service.

Applicable to general domestic and commercial lighting service including household appliances and single phase service to motor loads of not to exceed three horsepower capacity.

Territory.

Applicable to territory outside of incorporated limits.

Rate.

First	10 k.w.h. or less per meter per month	$1 25	
Next	40 k.w.h. per meter per month	07	per k.w.h.
Next	150 k.w.h. per meter per month	06	per k.w.h.
Next	800 k.w.h. per meter per month	05	per k.w.h.
Next	2,000 k.w.h. per meter per month	04	per k.w.h.
All over	3,000 k.w.h. per meter per month	03½	per k.w.h.

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Special Conditions.

Single phase motors of an aggregate capacity of three horsepower or less may receive service or may combine with general lighting service under this schedule of rates at the option of the consumer, provided, in case of combination service, the total energy is supplied through one meter.

SCHEDULE L-3.

Street and Highway Lighting.

Applicable to service to street, highway and other public outdoor lighting installations using bracket, mast arm, or center span construction and supplied from overheadlines where the company owns and maintains the entire equipment.

Territory.

Applicable to the entire territory served by the company.

Rate.

Incandescent lamps—	*Monthly charge per lamp all night service*
25 watt multiple	$0 95
40 watt multiple or 60 c.p. series	1 30
60 watt multiple or 80 c.p. series	1 70
75 watt multiple or 100 c.p. series	1 90
100 watt multiple	2 50
150 watt multiple or 250 c.p. series	3 20*
200 watt multiple	3 75*
250 watt multiple or 400 c.p. series	4 05*
300 watt multiple	4 40*
400 watt multiple or 600 c.p. series	4 80*

* Includes a refractor or a diffusing globe.

Special Conditions.

a. Under the above schedule the company bears the installation, maintenance and operating expenses and provides all necessary lamp renewals.

b. The foregoing rates apply to installations of 10 lamps or more. When service is supplied for less than 10 lamps, the above rates increased by 10 per cent will apply. Such increase in rate will be based upon the total number of lamps in circuit and not upon the number of lamps billed to a separate consumer.

SCHEDULE C-1.

General Heating and Cooking Service.

Applicable to general domestic and commercial heating and cooking service.

Territory.

Entire territory served.

Rate.

First 150 k.w.h. per meter per month	3.5 cents per k.w.h.
All over 150 k.w.h. per meter per month	2.0 cents per k.w.h.

Minimum Charge.

First 7 k.w. or less of heating and cooking capacity	$3 00 per month
Over 7 k.w. of heating and cooking capacity	0 50 per k.w. month

When the consumer signs a contract for service for a period of one year, the minimum charges will be made accumulative for the contractual year. The minimum charges are payable in monthly installments until such time as the accumulated charges equal the annual minimum charges.

Special Conditions.

a. Minimum charges are based on the total load of heating and cooking capacity which may be connected at any one time.

b. Connected load will be taken as the name plate rating of all heating and cooking apparatus permanently installed and which may be connected at any one time, computed to the nearest one-tenth of a kilowatt. All equipment assumed as operating at 100 per cent power factor.

SCHEDULE C-2.

General Heating, Cooking and Combination Service.

Applicable to general domestic lighting in combination with heating and cooking service.

Territory.

Entire territory served.

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Rate.

First 30 k.w.h per meter per month_____ (*)
Next 150 k.w.h. per meter per month_____3.5 cents per k.w.h.
All over 180 k.w.h. per meter per month_____2.0 cents per k.w.h.

(*) Charge for first 30 k.w.h. at effective lighting rates.

For residences, flats or individual apartments of more than eight rooms, 5 k.w.h. for each additional room will be added to the first block of 30 k.w.h.

Minimum Charge.

First 7 k.w. or less of heating and cooking capacity___$3 00 per month
Over 7 k.w. of heating and cooking capacity_____ 0 50 per k.w. per month

When the consumer signs a contract for service for a period of one year the minimum charges will be made accumulative for the contractual year. The minimum charges are payable in monthly installments until such time as the accumulated charges equal the annual minimum charge.

Special Conditions.

a. Minimum charges are based on the total load of heating and cooking capacity which may be connected at any one time.
No additional minimum charge will be made for lighting service in case of combination service.
b. This schedule applies only where the consumer permanently installs and uses cooking or heating apparatus (other than lamp socket devices) of at least 2 kilowatts capacity for residences, flats or individual apartments of 8 rooms or less and 5 kilowatts for residences, flats and individual apartments of 9 rooms or more.
c. Bath rooms, halls and cellars are not classified as rooms.
d. Connected load will be taken as the name plate rating of all heating and cooking apparatus permanently connected and which may be connected at any one time computed to the nearest one-tenth of a kilowatt and in no case less than 2 kilowatts. All equipment assumed as operating at 100 per cent power factor.
e. Single phase power service (three horsepower or less) may be combined under this schedule in which case each horsepower of connected load shall be considered equivalent to one kilowatt of connected load in determining the minimum charge.

SCHEDULE P-1.

General Power Service.

Applicable to general commercial and industrial power service.

Territory.

Entire territory served.

Rate.

A. C. Service.

Horsepower of connected load	Rate per kilowatt hour for monthly consumption of: First 50 k.w.h per h.p.	Next 50 k.w.h. per h.p.	Next 150 k.w.h. per h.p.	All over 250 k.w.h per h.p.
2– 9 ____	4.0 cents	2.1 cents	1.3 cents	1.1 cents
10–24 ____	3.6 cents	2.0 cents	1.2 cents	1.0 cent
25–49 ____	3.1 cents	1.9 cents	1.1 cents	0.9 cent
50 and over	2.6 cents	1.7 cents	1.1 cents	0.8 cent

Minimum Charge.

$1.00 per horsepower per month of installed capacity.

Special Conditions.

a. This schedule of rates will apply to service rendered at any standard voltage in accordance with the rules and regulations of the company. All necessary transformers to obtain such voltage will be supplied, owned and maintained by the company.
b. The consumer may obtain the rates and conditions of service for a larger installation by guaranteeing the rates and minimum charges applicable to the larger installation.
c. Mercury arc rectifiers, motor generator sets, X-ray machines, battery chargers, brooders, incubators, etc., may obtain service under this schedule.

DECISION NO. 18190.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AS AGENT FOR PACIFIC FREIGHT TARIFF BUREAU AND ON BEHALF OF ALL CARRIERS PARTIES TO SAID BUREAU EXCEPTION SHEET NO. 1-K CAL. R. C. NO. 383, OPERATING IN CALIFORNIA AND ON BEHALF ALSO OF SAN FRANCISCO-SACRAMENTO RAILROAD, SACRAMENTO NORTHERN RAILWAY, TIDEWATER SOUTHERN RAIL-

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WAY, AND McCLOUD RIVER RAILROAD, FOR AN ORDER AUTHORIZING CANCELLATION OF ALL TARIFF ITEMS CONTAINING REFERENCE TO RULES FOR CONSTRUCTING COMBINATION RATES, AS PROVIDED IN AGENT B. T. JONES' FREIGHT TARIFF NO. 228, I. C. C. NO. U. S. 1, C. R. C. NO. 1, SUPPLEMENTS THERETO AND REISSUES THEREOF APPLICABLE IN CONNECTION WITH RATES ON LUMBER AND FOREST PRODUCTS.

Application No. 13503.

Decided April 7, 1927.

RATES—RAILROAD—INDIVIDUAL TARIFFS—TO CANCEL.—Application granted.

A. L. Whittle, H. W. Klein and *Berne Levy*, for Applicants.
A. S. Titus, for California White and Sugar Pine Manufacturers' Association.
A. Larsson, for California Redwood Association, California Pine Box Distributors, Pacific Lumber Company (specifically), and Larsson Traffic Service, Protestants.

BY THE COMMISSION.

OPINION.

This is an application filed by F. W. Gomph, agent Pacific Freight Tariff Bureau in behalf of carriers parties to that bureau, also on behalf of the San Francisco-Sacramento Railroad, Sacramento Northern Railway, Tidewater Southern Railway and the McCloud River Railroad operating in California, seeking authority to cancel from the individual tariffs all items containing reference to the rules for constructing combination rates as provided in B. T. Jones Tariff No. 228, I.C.C. No. U. S. 1, C.R.C. No. 1 and the supplements thereto.

A public hearing was held before Examiner Geary at San Francisco March 7, 1927, and the application having been duly heard and submitted is now ready for our opinion and order.

This tariff only provides the rules for the construction of through rates on lumber and forest products, but originally was also the basis for rates on brick, cement, cotton, lime and many other commodities; its application to California traffic was, by authority of this Commission, cancelled September 1, 1923, as to all commodities except those on lumber and forest products here in issue. The tariff had its origin during federal control pursuant to General Order No. 28 of the Director General of Railroads, effective June 25, 1918, making increases in practically all rates of carriers under federal control. These increases were generally effected by percentage increases in the existing rates, but on certain commodities flat increases in cents per 100 pounds or per ton were made. Lumber and forest products were given an increase of 25 per cent, but not exceeding an increase of 5 cents per 100 pounds.

Prior to February 15, 1919, the combination rule was published in individual tariffs. Effective on that date those individual tariff provisions generally were canceled and the rule was published in I.C.C. No. U. S. 1 and reference items published in the individual tariffs of the carriers, making the master tariff I.C.C. No. U. S. 1 applicable. The

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tariff, when issued in 1919, was to be a temporary publication whereby the combination rates on commodities which were in effect June 24, 1918, and which were increased under General Order No. 28, June 25, 1918, should reflect but one increase in the total of the through charges. As illustrative: where separately established commodity rate factors are used in constructing combination rate a deduction of 5 cents per 100 pounds is made from each separately established commodity rate factor and to the sum of the commodity rate factor so reduced 5 cents per 100 pounds is added.

Because of peculiarities in connection with the application of the tariff many incongruous situations result and in numerous cases it is difficult for either the carrier or the shipper to determine the legally applicable rate. The Interstate Commerce Commission and this Commission have directed attention to the undesirable features of this publication and have requested the necessary action be taken to cancel the same and publish through rates to the basis of the rates in effect by use of the combination rules.

Authority for cancellation of the items governing the use of the combination tariff was issued November 26, 1920, under our sixty-third section authority No. 2738, but action by the carriers was withheld until September 1, 1923, when the cancellation was made effective as to all the commodities except lumber and forest products. These latter items were not taken care of in the year 1923 because of the impossibility of making proper tariff publication, hence it was necessary to continue the use of the combination tariff.

Carriers have checked their records and conducted investigations during the past six years to determine between what points there was a substantial movement of lumber and forest products where through commodity rates were not in effect and as a result have published numerous specific through rates and reduced many local rates to take care of the situation. Because of these adjustments comparatively few instances remain where the movement of lumber and its products are under the rules of this tariff.

At the hearing attention was directed to shipments of lumber from Placerville and Diamond Springs to points south of San Jose on the Southern Pacific and from lumber producing points on the Northwestern Pacific Railroad to points on the Sacramento Northern Railway. Applicants will be expected to publish through rates from and to these points not in excess of the rates now applicable.

Applicants agree and stipulate that if within three months after cancellation of the items attention is directed to a reasonable movement of lumber and forest products between points where the charges are now arrived at by use of the combination tariff, through rates will be published to the basis of the rates in effect prior to cancellation.

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After full consideration of all the facts of record we are of the opinion and find that the application has been justified and that applicants should be authorized to cancel from their individual tariffs all items containing reference to rules for constructing combination rates, as provided in Agent B. T. Jones Freight Tariff No. 228, I.C.C. No. U.S. 1, C.R.C. No. 1, and supplements thereto.

In furtherance of the stipulation, both carriers and shippers will be expected to cooperate in determining the points between which there is a reasonable movement of lumber and forest products in order that through rates may be published. The application will be granted.

ORDER.

This application being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that applicants, San Francisco-Sacramento Railroad, Sacramento Northern Railway, Tidewater Southern Railway, McCloud River Railroad Company and applicant carriers parties to Pacific Freight Tariff Bureau, F. W. Gomph, agent, be and they are hereby authorized to cancel from individual tariffs all items containing reference to rules for constructing combination rates as provided in Agent B. T. Jones Freight Tariff No. 228, I.C.C. U.S. 1, C.R.C. No. 1, supplements thereto and reissues thereof, subject to the publication of rates on lumber and lumber products from Placerville and Diamond Springs to points south of San Jose and from lumber producing points on the Northwestern Pacific Railroad to points on the Sacramento Northern, rates not in excess of those now in effect, and also subject to the stipulation that other rates will be published within a ninety days' period between specified points where through rates are not now in effect and where it has developed there is a substantial movement.

It is hereby further ordered, that applicants be and they are hereby authorized to publish the aforementioned cancellation supplements without regard to the number of supplements now in effect.

Dated at San Francisco, California, this seventh day of April, 1927.

DECISION No. 18192.

IN THE MATTER OF THE APPLICATION OF NOVATO UTILITIES COMPANY FOR AUTHORITY TO ISSUE NOTES.

Application No. 13608.

Decided April 7, 1927.

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SECURITIES—NOTES—TO ISSUE.—Application granted.

Thomas B. Boyd, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding the Railroad Commission is asked to make an order authorizing Novato Utilities Company to issue $30,000 of its five-year 6½ per cent unsecured notes for the purposes hereinafter indicated.

Novato Utilities Company is engaged in the business of supplying electricity for light, heat and power purposes, and water for domestic purposes and of giving local telephone service in the township of Novato, Marin County. The company was organized on or about February 10, 1916, and at present has outstanding $20,000 of stock. It has no bonded debt, but, as of December 31, 1926, it had outstanding $14,800 of notes and $4,271.56 of other current liabilities. It has reported its revenues and expenses for the last three calendar years as follows:

Item.	*1924*	*1925*	*1926*
Operating Revenues—			
Electric	$13,024 02	$15,507 41	$18,714 88
Telephone	5,067 82	5,535 22	6,012 57
Water	2,449 52	2,224 23	2,430 44
Total	$20,541 36	$23,286 86	$27,157 89
Operating Expenses—			
Electric	$9,155 97	$9,899 23	$12,466 98
Telephone	4,185 52	4,526 23	5,270 84
Water	1,790 68	1,775 36	1,676 04
Total	$15,132 17	$16,200 82	$19,413 86
Net operating revenues	$5,409 19	$7,086 04	$7,744 03
Nonoperating income	657 12	868 18	999 84
Gross income	$6,066 31	$7,954 22	$8,743 87
Deductions—			
Uncollectible bills	$113 46	$180 12	$368 90
Interest	720 00	760 90	749 22
Total	$833 46	$941 02	$1,118 12
Net income for year	$5,232 85	$7,013 20	$7,625 75

In making the present request to issue additional notes, applicant reports that it desires to use the proceeds for the purpose of obtaining money with which to acquire additional property, to make improvements in its properties and equipment, to pay outstanding obligations and to reimburse itself for moneys paid for permanent improvements out of its annual income and for such other purposes as may be neces-

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sary for the improvement of its facilities. It is of record, however, that applicant proposes to use the proceeds as follows:

To pay indebtedness	$14,800 00
To purchase real property	1,900 00
To erect a substation	1,000 00
To purchase transformers and equipment	8,150 00
To make proposed line extensions	4,150 00
Total	$30,000 00

The indebtedness applicant proposes to liquidate includes its entire note indebtedness outstanding on December 31, 1926. The notes are listed in applicant's petition.

The testimony of A. J. Cain, applicant's secretary and treasurer, indicates that the moneys obtained through the issue of the notes were used for additions to, betterments and extensions of the company's properties.

Referring to the use of the remaining proceeds to be received through the issue of the notes, applicant reports that the growth in business, particularly in the electric portion of its operations, as indicated in the foregoing statement of revenues and expenses and in the testimony herein, necessitates the expenditure of such proceeds for additional property and equipment to meet increasing demands for service. To this end it has arranged to purchase, for $1,400, lots 26, 27, 28 and 29 of block "L" of the township of Novato, upon which it is constructing a new substation, building at an estimated cost of $1,000, and installing necessary transformers and switchboard apparatus, at an estimated cost of $8,150. Miscellaneous line extensions necessary are estimated at $4,150.

In addition to the real property to be purchased for the site of the new substation, applicant also proposes, and has made arrangements, to purchase, for $500, a piece of land about 100 feet square, located in lot "A," which at present is used on a rental basis as a reservoir site in connection with its water operations, it being thought advantageous to purchase the property at this time.

ORDER.

Novato Utilities Company having applied to the Railroad Commission for permission to issue notes, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income:

It is hereby ordered, that Novato Utilities Company be and it hereby is authorized to issue, on or before December 31, 1927, $30,000 of its unsecured promissory notes, payable on or before five years after date

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of issue with interest at not exceeding 6½ per cent per annum for the purpose of liquidating indebtedness and of financing the cost of additions to and betterments and extensions of its plants and properties as outlined in the opinion preceding this order:

It is hereby further ordered, that the authority herein granted shall become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

It is hereby further ordered, that applicant shall keep such record of the issue of the notes herein authorized and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this seventh day of April, 1927.

DECISION No. 18193.

IN THE MATTER OF THE APPLICATION OF WEST SIDE LUMBER COMPANY, A CORPORATION, AND TURN BACK CREEK LIGHT AND POWER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING AND PERMITTING THE WEST SIDE LUMBER COMPANY TO TRANSFER ITS ELECTRICAL DISTRIBUTING SYSTEM IN THE TOWN OF TUOLUMNE TO TURN BACK CREEK LIGHT AND POWER COMPANY, A CORPORATION.

Application No. 13612.

IN THE MATTER OF THE APPLICATION OF WEST SIDE LUMBER COMPANY, A CORPORATION, AND TURN BACK CREEK LIGHT AND POWER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING AND PERMITTING THE WEST SIDE LUMBER COMPANY TO TRANSFER ITS ELECTRICAL DISTRIBUTING SYSTEM IN THE TOWN OF TUOLUMNE TO TURN BACK CREEK LIGHT AND POWER COMPANY, A CORPORATION; AND AUTHORIZING TURN BACK CREEK LIGHT AND POWER COMPANY TO ISSUE STOCK.

Application No. 13613.

Decided April 7, 1927.

TRANSFER—ELECTRIC UTILITY—TO SELL—STOCK—TO ISSUE—West Side Lumber Company authorized to sell electrical distributing system in the town of Tuolumne to Turn Back Creek Light and Power Company, and the latter authorized to issue in payment therefor not exceeding $6,600 of its capital stock.

J. J. Lermen, for Applicants.

BY THE COMMISSION.

OPINION.

In the two above entitled matters the Railroad Commission is asked to authorize West Side Lumber Company, a corporation, to sell, transfer and convey an electrical distributing system, located in the town of Tuolumne, to Turn Back Creek Light and Power Company, a corporation, and Turn Back Creek Light and Power Company to issue

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shares of its capital stock, at par, in an amount equivalent to the consideration, $6,568.25, to be paid for such system, or such other amount of stock as the Commission may deem proper.

The applications show that West Side Lumber Company is a corporation organized under the laws of the State of California and engaged, primarily, in the general lumber and timber business in California, particularly Tuolumne County. It appears, however, that the corporation owns an electric distributing system in the town of Tuolumne, and that in addition to its lumber and timber business it has been engaged in the public utility business of supplying electric energy in said town.

It is now reported to the Commission that on or about March 2, 1925, West Side Lumber Company entered into an agreement to sell, transfer and convey certain real and personal property, including the electric distributing system, to W. R. Pickering Lumber Company, a corporation organized under the laws of the State of Louisiana, but that title to the distributing system has not yet passed, being still held by West Side Lumber Company. W. R. Pickering Lumber Company subsequently assigned its interests to Pickering Lumber Company, a corporation organized under the laws of the state of Delaware. It, in turn, has caused the incorporation, under the laws of California, of Turn Back Creek Light and Power Company for the express purpose of having it take over and operate the public utility distributing system, and has requested West Side Lumber Company to transfer said system directly to Turn Back Creek Light and Power Company.

The properties involved in this proceeding consist of a distributing system only. It appears, in this connection, that Pickering Lumber Company, in conjunction with its business of manufacturing lumber, owns and operates a sawmill at Tuolumne which is run by electric power generated by a plant situated within the mill. In addition, in the past, energy has been purchased from Pacific Gas and Electric Company. Pickering Lumber Company and applicant, Turn Back Creek Light and Power Company, have entered into an agreement whereby the lumber company agrees to sell to the light and power company such surplus electrical energy as the lumber company may have. Paragraph "1" of the agreement as filed with the applications as Exhibit "A" reads as follows:

> 1. During the term of this agreement the lumber company will sell to the power company at the switchboard in the lumber company's manufacturing plant in the town of Tuolumne, California, for the price of $0.014 per kilowatt hour such surplus electrical energy produced in said lumber manufacturing plant as may be required and taken by the power company for the distribution in the said town of Tuolumne. The words "surplus electrical energy" as used herein, mean such energy as may be produced in the said lumber manufacturing plant of the lumber company and not needed or required by the said lumber company for its industrial purposes. It is understood that the lumber company in no way holds itself out as a vendor of electrical energy or commits

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itself to the sale of any part of the energy generated in its said plant, except surplus energy incidentally produced.

On March 29, 1927, the Commission was advised by letter that the parties to the agreement had decided to modify the agreement by adding to the aforesaid paragraph "1" the following:

which surplus energy the lumber company guarantees will be sufficient at all times to supply the demand of the power company.

With this addition the proposed agreement is satisfactory.

The consideration mentioned in the applications is $6,568.25, which is alleged to represent the fair value of the system and to include $1,504.76 for poles and fixtures, $1,771.10 for wire, $144.40 for insulators, $1,890.91 for 420 meters and $1,257.08 for 33 transformers. It is reported that the $6,568.25 has been advanced and paid to the lumber company by D. H. Steinmetz, one of the incorporators of the light and power company, and that D. H. Steinmetz is willing to accept in reimbursement of the moneys thus advanced shares of stock in an amount approximating the consideration, or in such other amount as to the Commission may seem proper.

We have given consideration to these matters and believe that an issue of stock in the amount of not exceeding $6,600 is reasonable for the purposes of this proposed transfer. While an order authorizing the issue of such an amount of stock accordingly will be entered, such authority is not to be construed as a finding of value of the distribution system for the purpose of fixing rates or for any purpose other than the transfer.

ORDER.

Application having been made to the Railroad Commission for permission to transfer an electric distributing system and to issue stock, and the Commission being of the opinion that this is a matter in which a public hearing is not necessary, that the applications should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the stock herein authorized is reasonably required for the purpose specified herein, and that the expenditure for such purpose is not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that West Side Lumber Company be and it hereby is authorized to transfer to Turn Back Creek Light and Power Company the electric distributing system to which reference is made in the opinion preceding this order, and Turn Back Creek Light and Power Company be and it hereby is authorized to issue in full payment for such properties, free and clear of all liens and encumbrances, not exceeding $6,600 of its capital stock.

It is hereby further ordered, that Turn Back Creek Light and Power Company be and it hereby is authorized to enter into an agreement

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with Pickering Lumber Company substantially in the same form as that filed in Application No. 13612 as Exhibit "A" modified, as indicated in the opinion preceding this order.

The authority herein granted is subject to the following conditions:

1. The amount of stock which Turn Back Creek Light and Power Company is herein authorized to issue in payment for the distributing system herein authorized to be transferred shall not hereafter be urged before this Commission or other court or public body having jurisdiction, as a measure of value of such properties for the purpose of fixing rates or for any purpose other than the transfer herein authorized.

2. Turn Back Creek Light and Power Company shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file, within thirty days after such issue, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective when Turn Back Creek Light and Power Company has filed with the Commission a certified copy of the agreement, as finally executed, with Pickering Lumber Company, covering the sale of electric energy, modified as indicated herein.

Dated at San Francisco, California, this seventh day of April, 1927.

DECISION No. 18217.

IN THE MATTER OF THE APPLICATION OF NAPA VALLEY BUS COMPANY, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTO STAGE SERVICE BETWEEN CALISTOGA, NAPA COUNTY, AND VALLEJO, SOLANO COUNTY.

Application No. 12359.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT CO., A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE OPERATION OF AN AUTOMOBILE STAGE LINE FOR THE TRANSPORTATION OF PERSONS AND EXPRESS BETWEEN VALLEJO AND CALISTOGA, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 12510.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO, NAPA AND CALISTOGA RAILWAY, A CORPORATION, FOR PERMISSION TO DISCONTINUE CERTAIN TRAINS.

Application No. 12593.

Decided April 11, 1927.

CERTIFICATE—AUTO STAGES—TO OPERATE.—Certificate granted Napa Valley Bus Company to operate auto stage service between Calistoga and Vallejo in lieu of certain train service by San Francisco, Napa and Calistoga Railway.

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ABANDONMENT—TRAIN SERVICE—TO DISCONTINUE.—San Francisco, Napa and Calistoga Railway authorized to discontinue certain non-paying trains, for which bus service is to be substituted.

ADDITIONAL SERVICE—AUTO STAGES—TO ESTABLISH.—Finding no showing has been made justifying the establishment of a competing stage service, the application of the California Transit Company for a certificate to establish such service is denied.

Sanborn and Rochl and *De Lancey C. Smith*, by *H. H. Sanborn*, for Applicants in Applications Nos. 12359 and 12593, and for protestants, San Francisco, Napa and Calistoga Railway and Napa Valley Bus Company, in Application No. 12510.

Earl A. Bagby, for applicant in Application No. 12510, and for protestant California Transit Co. in Application No. 12359.

H. W. Hobbs and *L. E. Johnston*, for Southern Pacific Company, Protestant in Application No. 12510.

Edward Stern, for American Railway Express Company, Protestant in Application No. 12510.

Raymond Benjamin, *Harry A. Encell*, and *C. N. Hatch*, for Monticello Steamship Company, Protestant in Application No. 12510.

W. H. Hornaday, for the Veterans' Home, Protestant in Application No. 12510.

C. S. Stanbrook, for Chamber of Commerce of Vallejo.

L. W. Cobb, for Pacific Union College.

Sam Aronson, for Calistoga and Clear Lake Stage Co.

BY THE COMMISSION.

OPINION.

In Application No. 12359, Napa Valley Bus Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by applicant of an automobile bus service for the carriage of passengers and baggage between Calistoga, Napa County, and Vallejo, Solano County, and intermediate points.

In Application No. 12510, California Transit Co., a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by applicant of an automobile stage line for the transportation of passengers, baggage and express between Vallejo and Calistoga and the intermediate points of Flosden, Sacramento Junction, Suscol, Napa State Hospital, Napa, Union, Oak Knoll, Veterans' Home, Yountville, Oakville, Rutherford, Zinfandel, St. Helena, Lackmead, and Redwood Lodge, and to consolidate such service with its present operative rights.

In Application No. 12593, San Francisco, Napa and Calistoga Railway, a corporation, has petitioned the Railroad Commission for an order authorizing the discontinuance of certain alleged unprofitable trains and for the supplementing and coordination of train service with the proposed stage service of Napa Valley Bus Company.

Public hearings on these applications were conducted by Examiner Hanford at Napa, Calistoga, St. Helena and San Francisco, the matters were consolidated for the purpose of receiving evidence and for decision, were duly submitted and are now ready for decision.

In Application No. 12359, Napa Valley Bus Company, proposes to charge rates in accordance with a schedule marked "Exhibit A," as

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filed with the application as a part thereof; to operate on a schedule of one round trip daily between Vallejo and Calistoga with one additional round trip daily between Calistoga and Napa, and one one-way trip from Vallejo to Napa; using as equipment two Studebaker busses of street car type, each having a seating capacity of 21 passengers.

Applicant relies as justification for the granting of the desired certificate upon the following alleged facts: that for some time past there has been a steady decrease in the number of passengers carried on certain of the regularly scheduled trains of the San Francisco, Napa and Calistoga Railway which has resulted in the operation of some of said scheduled trains at a loss; that said trains connect at Vallejo with regularly scheduled steamers operated by Monticello Steamship Company between San Francisco and Vallejo, with which company said San Francisco, Napa and Calistoga Railway operates, by agreement, a joint through route between San Francisco and Calistoga and intermediate points between Vallejo and Calistoga; that rather than discontinue the aforesaid unprofitable trains the San Francisco, Napa and Calistoga Railway will enter into contract with applicant to operate auto stage service in lieu of some of the train service; and that the proposed operation will be supplemental and an auxiliary to the train service, not in competition with said train service but under contract to be entered into between applicant and said San Francisco, Napa and Calistoga Railway.

In Application No. 12510, California Transit Co. proposed to charge rates in accordance with a schedule marked "Exhibit A," as attached to and made a part of the application; to operate on a schedule of four round trips daily between Vallejo and Calistoga, with three additional round trips daily between Napa and Vallejo. Through service between Sacramento and Calistoga is provided by two round trips daily, between Oakland and Calistoga by four round trips daily, and between Oakland and Napa by seven round trips daily; using as equipment modern automobile coaches of the same standard as now operated on its authorized routes.

Applicant relies as justification for the granting of the desired certificate upon the following alleged facts: (1) that there is no existing stage service for the transportation of passengers and express between Napa and Calistoga and that such service properly conducted by an experienced operator is essential to the convenience, necessity, development and welfare of every community; (2) that applicant has such finances, equipment, coaches, body-building and repair plant, and such general experience in the operation of automotive transportation business as will enable it to furnish the proposed service economically and efficiently; (3) that the existing rail service does not parallel the highway between Vallejo and Calistoga and that a large population along

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the highway can not conveniently obtain the existing rail service; (4) that the existing rail service is not of a permanent character and is liable to be impaired by reduction of train schedules at any time; (5) that there is no convenient passenger transportation service by rail or otherwise between Napa and Calistoga and intermediate points on the one hand and Vallejo and Sacramento and intermediate points on the other hand, excepting the stage service now furnished by this applicant between Napa and Sacramento; (6) that there is no convenient passenger transportation service by rail or otherwise between Napa and Calistoga and intermediate points on the one hand and Oakland and Vallejo and intermediate points on the other hand, other than one daily Southern Pacific train operated between Oakland and Calistoga with changes at Vallejo and Vallejo Junction, and the existing service by this applicant between Oakland and Napa; (7) that the present service rendered between Calistoga and Napa via San Francisco, Napa and Calistoga Railway does not extend beyond Vallejo except by transfer to other transportation companies and direct connections at Vallejo, either for arrivals or departures, are not maintained by said railway for service to or from Oakland, or Sacramento and intermediate points; (8) that there is an increasing general demand for as much through service as it is possible to maintain, especially at points where the majority of the traffic handled is through traffic, and this applicant proposes the only through service to the larger cities in the territory involved; (9) that various depots of the railroad carriers serving a part of the proposed route are located at remote and inconvenient places, causing much annoyance, expense and discomfort to the traveling public in its effort to reach its destination, both as to transfer of persons and baggage; (10) that public convenience and necessity demands frequent service by small units of transportation to and from Calistoga and points intermediate to Calistoga and Napa for passengers originating at or destined to points in California reached through Vallejo, Sacramento or Oakland, and that the one daily train of the Southern Pacific Company and the schedules of the electric railway between Calistoga and Vallejo without proper connections to Sacramento and Oakland are wholly insufficient and inadequate as a transportation service for the populous and fast-growing communities between Vallejo and Calistoga; (11) that especially during the six months of the summer season when tourists are visiting the many resorts located on or beyond the proposed route to Calistoga the present transportation service is insufficient both as to those residing in the territory, and the public outside such territory desiring to travel thereto; (12) that another stage line operates to many mountain resorts in Lake County beyond Calistoga, which points have no rail service, and said stage service would be available to passengers of this applicant who desire to make

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vacation or business trips to one or more of such resorts; (13) that by reason of the present operations of this applicant the proposed service can be more economically established and operated and greater service be rendered by this applicant than by any other stage line operating independently and without previous experience in stage transportation; (14) and that there is a public demand for the proposed passenger service locally between Vallejo and Napa, serving all intermediate points, and especially for such service to the station known as Imola or Asylum, at the location of the Napa State Hospital, and by the present limitation on applicant's operative rights such local service is prohibited and by such prohibition the public is unnecessarily and greatly inconvenienced.

In Application No. 12593, San Francisco, Napa and Calistoga Railway relies as justification for the granting of its application on exhibits as attached to and forming a part of the application and consisting of (1) present railway time card No. 4, (2) proposed railway time card and proposed bus schedule representing coordinated service, (3) statement of earnings per car mile of trains herein sought to be discontinued for months of November and December, 1925, and January, 1926, and (4) statement of saving of combined costs by reason of proposed coordinated service. The application sets forth that the request to discontinue certain specific trains is contingent upon the granting of a certificate of public convenience and necessity to applicant, Napa Valley Bus Company.

C. E. Brown, vice president and general manager of San Francisco, Napa and Calistoga Railway, described the operation of his railroad, specifically as to the operation of certain trains which were proposed to be discontinued and to be substituted by bus service to be rendered by the Napa Valley Bus Company under a contract hereafter to be executed, provided the application of the Napa Valley Bus Company should be granted. The terms and conditions of the proposed contract have not been reduced to tangible form, other than that it is proposed that the supervision and management of the bus line will be cared for by the witness and other supervisory officials of the San Francisco, Napa and Calistoga Railway.

The trains proposed to be discontinued are as follows:

No. 13*	leaving Yountville	3.57 p.m.,	arriving Vallejo	4.57 p.m.
No. 15*	leaving Napa	4.22 p.m.,	arriving Vallejo	4.57 p.m.
No. 23	leaving Napa Limits	9.25 p.m.,	arriving Vallejo	10.10 p.m.
No. 8	leaving Napa	11.00 a.m.,	arriving Napa Limits	11.11 a.m.
No. 14†	leaving Napa Limits	3.40 p.m.,	arriving Yountville	3.57 p.m.
No. 22	leaving Vallejo	7.10 p.m.,	arriving Napa Limits	7.55 p.m.
No. 26	leaving Vallejo	8.40 p.m.,	arriving Napa Limits	9.24 p.m.

*Runs Saturday only.
†Daily except Saturday and Sunday.

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It is proposed to substitute bus service, daily except Saturdays and Sundays, which will furnish transportation in lieu of the train service as follows:

SOUTHBOUND.

Leave Calistoga 7.02 p.m., arriving at Napa 8.17 p.m., passengers for points south of Napa changing to electric service at Napa.
Leave Napa at 10 p.m., arriving Vallejo at 10.40 p.m.
Leave Napa Limits at 11.36 p.m., arriving Napa 11.46 p.m.

NORTHBOUND.

Leave Napa 9.10 p.m., arriving Calistoga 10.25 p.m., passengers from Vallejo and points south of Napa changing from electric train to bus at Napa.
Leave Vallejo 10.50 p.m., arriving Napa Limits 11.36 p.m.

Records of earnings per car mile of the trains proposed to be abandoned were submitted as an exhibit and show the following average earnings in cents per car mile for the period of five months, November, 1925, to March, 1926, inclusive:

	Train Numbers						
	13	*15*	*23*	*8*	*14*	*22*	*26*
Average earnings per car mile, in cents	6.0	8.7	5.2	.05	28.4	5.9	46.4

The expense of passenger train operation, on a car mile basis, has averaged 47.5 cents per car mile. The proposed elimination of passenger train service will dispense with 2,050.6 car miles per month; the extension of bus service will add the equivalent of 1,071 car miles by reason of present train service being amplified by one round trip of bus service between Napa limits and Calistoga. A saving of power house costs is also anticipated, present conditions requiring power houses or substation to be operated more hours than will be necessary under the proposed coordination of service. This saving would be effective on such days when travel conditions do not require the operation of electric train schedules, and it is proposed to operate the train service on Saturdays and Sundays.

The proposed bus service is estimated to require an expenditure of 25 cents per bus mile. Based on the foregoing factors, the following estimate shows the anticipated savings per thirty-day month:

Train service discontinued	2,050.6	*@* 47.5 cents	$974 03
Added in connection with proposed coordinated schedule	1,071.	*@* 47.5 cents	508 72
Saving in power house costs	21 days	*@* $4.00	84 00
			$1,566 75
1814 bus miles		*@* 25 cents	453 60
Estimated monthly saving			$1,113 15

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In support of applicant's desire to effect the estimated economies an exhibit was filed showing the comparative income statement for selected years, as follows:

Revenue from transportation	*Year 1915*	*Year 1920*	*Year 1925*
Passenger revenue	$202,187 25	$298,784 97	$174,805 39
Baggage	358 96	255 18	169 68
Special car revenue	682 50	983 50	-------
Mail	-------	-------	1,546 28
Express	4,680 72	7,389 80	6,131 33
Freight	18,031 65	36,494 78	63,052 70
Total transportation revenue	$225,941 28	$343,908 23	$245,645 78
Revenue from other railway operations	729 86	1,904 30	1,267 68
Total operating revenue	$226,671 14	$345,812 53	$246,913 46
Total operating expenses	147,900 82	194,791 08	157,322 15
Net total from railway operations	$78,770 32	$151,021 45	$89,591 31
Deduct taxes	11,040 00	28,355 30	16,928 77
Operating income	$67,730 32	$122,666 15	$72,662 54
Nonoperating income	1,072 59	5,061 75	3,720 64
Gross income	$68,802 91	$127,727 90	$76,383 18
Deductions from income—			
Rent for leased road	-------	-------	$11,493 22
Interest on funded debt	$65,545 50	$63,110 99	59,038 04
Interest on unfunded debt	4,038 75	-------	-------
Miscellaneous debits	-------	1,839 32	1,287 32
Total deduction from income	$69,584 25	$64,950 31	$71,818 58
Net income	$781 34*	$62,777 59	$4,564 60

Note.—*Indicates deficit.

The investment in road and equipment as appearing on a balance sheet as of December 31, 1925, shows the following detail:

Road and equipment—	
Purchase price	$1,755,147 85
Way and structures	311,197 38
Equipment	73,590 54
Power	63 70
General and miscellaneous	708 13
Additions and betterments	35,269 80
Total	$2,175,976 61

The net return on investment has prompted the executive officials to seek methods by which revenue may be continued and service be rendered at a minimum cost, and the proposed plan of coordinated stage and electric train operation has been developed.

W. W. Everett, a fruit grower, residing five miles east of St. Helena, testified that he used and was familiar with the service of the San Francisco, Napa and Calistoga Railway; that he was interested in the maintenance of said service and was of the opinion that any curtailment would cripple the farmers and residents of Napa Valley. Witness had

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heard nothing unfavorable regarding the proposed operation of stages by the railroad, although the general feeling among the farmers was very pronounced against stages doing a general business in Napa County and operating over highways which had been constructed by taxpayers of the county, believing that busses would obstruct the highway. The present service in the transportation of freight by the San Francisco, Napa and Calistoga Railway is considered invaluable and the stations of the Southern Pacific Company are located at convenient points for the handling of freight and passenger traffic. The witness owns his own automobile, rides stages infrequently, traveling almost entirely by private machine.

W. H. Hornaday, a member of the official staff of the Veterans' Home of the State of California, located near Yountville, testified that the enrollment at the home was in the neighborhood of 1000. Veterans are accorded a half-fare privilege by the Southern Pacific Company and the San Francisco, Napa and Calistoga Railway, the service of the latter being more frequently used.

The service rendered by the existing transportation facilities is stated to be all that is required in and out of the Napa Valley by the veterans who reside at the home and who do not favor busses for their transportation, regardless of who operates such form of transportation.

C. S. Stanworth, secretary of the Chamber of Commerce of Vallejo, testified that his organization had gone on record as being opposed to any competition with the San Francisco, Napa and Calistoga Railway. Witness was of the opinion that business for the railroad could be augmented by aggressive solicitation and advertisement, and was not opposing the granting of the railway's stage line application, although preferring that the electric trains, herein proposed to be abandoned, be continued and their service extended from Napa to Calistoga on the schedules now proposed to be operated by stage.

Henry C. Holden, residing in Brown's Valley, west of Napa, testified that he was not in favor of stage service from Napa to Calistoga, although he would not object to the substitution of stage service for rail schedules provided that it was absolutely essential to insure the continued operation of the railroad and the substituted bus service was reduced to a minimum.

Henry C. Melone, residing at Oak Knoll for forty-five years, and operating a ranch of 2200 acres, testified that he anticipated a bad effect on conditions in Napa County if the electric line of the San Francisco, Napa and Calistoga Railway was to be discontinued, and would, therefore, favor the substitution of some of the electric train schedules by bus service.

Henry Wheatley, president of Napa County Farm Bureau, and residing about six miles north of Napa, testified that if a necessity

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was found for the substitution of bus service for some of the electric train service he was satisfied if it were authorized, although personally would rather not see the change made. Witness uses the freight service of the San Francisco, Napa and Calistoga Railway and was of the opinion that it would not be a desirable condition for the Napa Valley if a new stage line were to be authorized which in any way would curtail the service now rendered by the electric railway. He is also opposed to the advent of a new bus line, believing the present facilities offered by existing transportation companies to be adequate.

Henry Brown, president of the Bank of Napa, testified that it would be a misfortune to all communities in Napa Valley if any curtailment of service or abandonment of facilities were to be made by the San Francisco, Napa and Calistoga Railway; that such railroad served the Napa Valley satisfactorily and suitably at the present time. E. L. Bickford, president of the First National Bank of Napa, gave similar testimony and knew of no additional transportation facilities that were necessary, believing that Napa Valley would be adversely affected by any curtailment of service or cessation of operation by the San Francisco, Napa and Calistoga Railway.

F. O. Karp, employed by Winship-Beard Company, merchants at Napa, testified that his concern shipped freight daily from San Francisco, using the facilities of the Monticello Steamship Company and San Francisco, Napa and Calistoga Railway. He also knew the passenger service to be good. Witness was of the opinion that if any appreciable amount of revenue should be lost to the electric railroad by a diminution of freight or passenger service, and if any curtailment of service should follow, it would be a distinct disadvantage and damage to the Napa Valley. This witness owns an automobile and frequently uses it in his trips to points served by the railroad.

L. S. Boggs, in the insurance business at Napa, and a member of the Salvador Farm Center, knows of and uses the service of the San Francisco, Napa and Calistoga Railway principally for trips to San Francisco. This witness was of the opinion that no bus service in the Napa Valley would be an adequate substitute for the present electric railway service.

A. B. Wilson, manager of the Noyes Lumber Company at Napa, testified as to the use of the San Francisco, Napa and Calistoga Railway for the handling of freight shipments. Witness is also satisfied with the passenger service of such company and believes that if the electric railroad service were to be discontinued or curtailed it would be a great loss to all Napa Valley communities.

F. D. Mackinder, editor of the St. Helena Star and for 43 years a resident of St. Helena, testified that he had heard of no demand for the establishment of stage service as proposed by the

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California Transit Co.; that the freight service as now rendered by the San Francisco, Napa and Calistoga Railway was absolutely essential; that people having business in Sacramento mostly use their own machines; and that he had heard no complaint as to the existing transportation service.

Walter Metzner, a druggist at, and 30 years a resident of St. Helena, testified as to his satisfaction with existing transportation service and that he had heard no material complaint other than that service was not good between St. Helena and Sacramento. Witness owns an automobile which he used for his personal trips.

P. R. Alexander, cashier of the First National Bank of St. Helena and a member of the St. Helena Chamber of Commerce, testified that he had heard no demand for the service as proposed by applicant California Transit Co., and that he believed the service of the San Francisco, Napa and Calistoga Railway was essential for the welfare of the Napa Valley, having personally used such service and finding it satisfactory. The witness has no need for transportation between St. Helena and Sacramento.

Albert C. Haskell, farmer and orchardist at St. Helena and president of the St. Helena Chamber of Commerce, testified the Chamber of Commerce was of the opinion that the existing transportation facilities were adequate and that no additional service, as proposed, was necessary, there having been no complaint against existing service of which the Chamber of Commerce had knowledge. Witness was of the opinion that there was little of community interest between St. Helena and Sacramento which would require the establishment of additional transportation facilities between such points.

Dan M. Gardner, Jr., a poultry producer at St. Helena, testified that on his trips to Oakland he used his own automobile, although finding the Southern Pacific Company service adequate by reason of adjusting his departures by rail to conform with the published schedules. The witness uses the freight service of the San Francisco, Napa and Calistoga Railway and finds it very satisfactory and affording practically express service at freight rates.

Roy Leveria, proprietor of Myrtledale Hot Springs, a resort located one and one-half miles north of Calistoga, testified that his resort was open to the public during the entire year; that in the 1926 season he accommodated about 6100 guests, 85 to 90 per cent using their private cars for transportation. About one-half of his guests come from San Francisco and the East Bay cities. Some complaint has been made by Oakland patrons as to a wait being necessary at Napa when passengers are en route to Calistoga and have used stage transportation, Oakland to Napa, with the intention of transferring to the elec-

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tric line at Napa. Witness has used the freight service of San Francisco, Napa and Calistoga Railway and has found it very satisfactory. On his trips to Oakland witness uses his own automobile, finding same to be more convenient than the use of the existing transportation facilities.

M. C. Lysinger, manager of the St. Helena Sanitarium, testified that his institution cared for 4000 to 5000 patients annually; that he had heard no demand from his patients for any additional transportation facilities to or from St. Helena nor any complaint as to the inadequacy or insufficiency of the existing facilities. The majority of the patients travel to and from the Sanitarium in private conveyances. The witness was of the opinion that patients of his institution would not be as well served by a stage line as by the existing facilities.

C. F. Fredericksen, a merchant of Lower Lake, testified as to having heard some demand for additional service in the Napa Valley. Witness when making trips to San Francisco uses his own automobile between Lower Lake and Napa, and the service of the San Francisco, Napa and Calistoga Railway and the Monticello Steamship Company between Napa and San Francisco. He also uses the freight service of the electric line which is satisfactory, and is of the opinion the present existing transportation facilities are adequate and satisfactory.

Andrew McNair, residing at St. Helena, a member of the St. Helena Chamber of Commerce and of the Rotary Club, testified the present existing service to San Francisco was adequate; that he knew of no necessity for additional local service between Vallejo and Calistoga; that he used the freight service of San Francisco, Napa and Calistoga Railway, finding same very satisfactory and furnishing practically express service at freight rates; and that there was not enough travel to warrant the authorization of additional stage service. Witness makes use of his own automobile for about half his trips and is not interested in any transportation between Oakland and St. Helena.

F. W. Mielenz, manager for the Napa Valley Electric Company, and 17 years a resident of St. Helena, testified that he knew of no demand for additional transportation service in the Napa Valley nor of any demand for such to Oakland. Witness stated that his company served approximately 1250 consumers, with all of whom he was personally acquainted and from whom he would have heard of any demand for additional service. The witness uses the freight service of San Francisco, Napa and Calistoga Railway from San Francisco and has found such service, as well as the passenger service, to be adequate. He also uses his own automobile on his infrequent trips to Oakland and has some complaint regarding the existing express service from Oakland to St. Helena as being too slow, stating

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the freight service, San Francisco to St. Helena, was faster than the express service from Oakland.

C. H. Greenfield, chairman of the advisory board of the Liberty Bank (formerly Bank of St. Helena), and for 45 years a resident of Napa Valley, was of the opinion that the proposed service of applicant California Transit Co. was not necessary; that there was no demand, nor had he heard of any, for the proposed service; that he knew of no necessity for additional service locally between Calistoga and Vallejo; that he has used the freight facilities of the San Francisco, Napa and Calistoga Railway and had found them satisfactory; that he personally prefers to make the trip between St. Helena and Oakland via San Francisco; and that in his trips to Sacramento via the Southern Pacific Company he finds no objection to the changes which are necessary. This witness was of the opinion that the existing transportation facilities in the Napa Valley have already been developed in advance of the needs of the population to be served.

A. N. Bell, a merchant at St. Helena, and for 47 years a resident, testified that he made trips to Oakland via San Francisco and the existing facilities, and also in his own automobile; that he seldom had occasion to make trips to Sacramento; that he used the freight service of the San Francisco, Napa and Calistoga Railway, finding it necessary and convenient; that he had heard of no demand for additional transportation service to Oakland or Sacramento; that in his opinion two-thirds of the residents of Napa Valley were opposed to the operation of stages on the highways and that personally he would prefer that no stage line operation be authorized. It was stipulated by counsel that the testimony of E. H. Stevens, a hardware merchant of St. Helena, would be the same as that of this witness.

Philip Ewing, a merchant of St. Helena, testified that he seldom had occasion to make trips to Oakland and had no need for transportation to Sacramento. The witness owns and uses his automobile on trips but believes the service proposed by applicant California Transit Co. would be of some advantage to the public by reason of direct service being available without change of cars.

Dr. C. A. Johnson, assistant superintendent of Napa State Hospital, testified as to the use of transportation facilities by patients at the hospital. During the year ending June 1, 1926, 218 walking and 52 stretcher patients were received from San Francisco. Very few patients are received from Oakland or Sacramento, and such patients are usually brought to Napa by the automobiles of the counties from which the patients originate. The witness is not impressed with the idea of transporting hospital patients by stage lines, believing the present transportation facilities ample to care for the needs of travel

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to or from the Napa State Hospital, for both patients and visitors. The hospital, at the time of the hearing, had an enrollment of 2860 patients.

The witness uses his own automobile for the majority of his trips, and while he has used stages on two occasions, does not favor such method of transportation. He also finds the Southern Pacific service inconvenient, by reason of changes necessary in trips to Napa from San Francisco, Oakland or Sacramento, not so much as regards his personal need but in the transportation of patients to the hospital.

A. V. Covey, in the automobile and garage business at Napa, testified as to frequent travel to Oakland in which he uses the trains of the Southern Pacific Company. Witness formerly used stage service but discontinued on account of crowded stages and delayed connections at Napa wye connections, many times being late from twenty to thirty minutes. He is familiar with the service of the San Francisco, Napa and Calistoga Railway, personally using the freight service and finding it satisfactory, and has heard no complaint regarding any inadequacy of the present or need for additional service. He also considers the Southern Pacific service between Napa and Oakland very satisfactory and finds no inconvenience in the changing of cars en route.

N. S. Booth, owning and operating Harbin Springs in Lake County, testified his resort accommodated 300 guests and over 3000 people were handled each season, about one-half the patronage originating in San Francisco and one-quarter from Oakland. But few people from Sacramento patronize his resort. Eighty-five per cent of his guests come to his resort in their own cars. Witness does not believe additional transporation service is necessary from either San Francisco, Oakland or Sacramento, having heard no complaint as to service rendered by the San Francisco, Napa and Calistoga Railway.

The rail service into Calistoga, both freight and passenger, is good. Witness has no prejudice against stage lines but does not consider any additional transportation service to be necessary.

A petition signed by 111 residents of Napa, St. Helena, Rutherford, Vallejo, Calistoga and other Napa Valley points was received in evidence. This petition requests the denial of the application of California Transit Co. and favors the granting of the applications of San Francisco, Napa and Calistoga Railway and Napa Valley Bus Company. A petition was also received, along similar lines, signed by forty-one merchants and residents of Lower Lake, Clear Lake, Clear Lake Highlands, Kelseyville and Middletown. The St. Helena Chamber of Commerce, the board of Pacific Union College, the Lower Lake Center of the Lake County Farm Bureau, by resolutions filed at the hearing, all oppose the granting of the application of the Cali-

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fornia Transit Co. The board of directors of the St. Helena Sanitarium favor the granting of the application of the San Francisco, Napa and Calistoga Railway for authority to conduct a stage service in connection with the electric rail line, as evidenced by a resolution dated April 22, 1926.

Owen Kenny, a member of the board of trustees of Calistoga, proprietor of Calistoga Hotel and residing at Calistoga for 15 years, testified as to the unanimous endorsement by the board of trustees of Calistoga of the proposed operation by California Transit Co.; that he received frequent inquiries at his hotel for stage transportation to Oakland; that in his opinion the Southern Pacific service between Calistoga and San Francisco or Sacramento is inadequate, nor that of the San Francisco, Napa and Calistoga Railway to some points; that his hotel has an average registration of twenty-five to thirty patrons per day during about four months of the vacation season; and that a stage line between Napa and Calistoga would be an advantage to the Calistoga community. The witness estimated the population of Calistoga to be about 1000, and in summer possibly 600 to 700 additional residents. He was of the opinion the present available service between Oakland and Calistoga would be satisfactory if good connections were to be made, and that the majority of the travelers reaching Calistoga from Sacramento made the trip in privately owned automobiles.

E. F. Baxter, a grocery, hardware and general merchant, at Calistoga, was in favor of any additional transportation service enabling the traveling public to reach Calistoga, believing such proposed service to be an asset to his community. Witness used the freight service of the electric line for the transportation of goods from San Francisco and finds such freight service satisfactory.

John Ghisolpho, proprietor of the Mountain View Hotel at Calistoga, and 14 years in the hotel business there, testified that in his opinion the service proposed by the California Transit Co. would be beneficial to Calistoga; that he enjoyed patronage at his hotel from residents of Sacramento and the Sacramento Valley; and that patrons without their own automobiles appeared to prefer stage transportation, although more of his guests came to Calistoga in their private automobiles than arrived by public transportation.

August Brucker, residing two and one-half miles north of Calistoga, a member of the Bennett Farm Center and the Alvarado Grange, testified as to the action of the Farm Center and as to its going on record against the granting of a certificate for stage operation by the San Francisco, Napa and Calistoga Railway, and if the railroad service were to be curtailed to the extent that stage service was to be partially substituted for trains, that authority for stage operation

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should be granted to a through stage line which would serve Oakland and Sacramento.

V. Hague, operating a radio and sporting goods store, and for 11 years a resident of St. Helena, believed there was a need for the stage service as proposed by California Transit Co. No withdrawal of the freight service by the electric line from San Francisco would affect the business of this witness as overnight freight service was available by the use of the Southern Pacific service.

Mrs. Ruth Fuller Field, for ten years a resident of Calistoga, and formerly secretary of the Calistoga Chamber of Commerce, testified as to the need for the service proposed by the California Transit Co.; and that she knew instances where tourists visiting California would not include Calistoga on their trip because of the lack of through and direct transportation from San Francisco Bay points.

M. Harry Cohen, proprietor of Piner's Hot Springs at Calistoga, testified his resort accommodated from 900 to 1000 guests per year, 95 per cent of whom reach his resort by private conveyances. This witness believed the service and facilities of the existing railroads was satisfactory and he had no complaint, nor had he heard any from his patrons.

H. J. Aldrich, owning a health resort at Calistoga, cares for 1500 to 2000 guests annually, his patrons coming principally from San Francisco and the East Bay cities, 75 per cent of such guests using private automobiles. This witness knew of no need for additional service, had no complaint against the present available service, nor had he heard any from his patrons.

William K. Buxton, a town trustee of Calistoga, testified he was in favor of the authorization of a through stage line from Sacramento to Calistoga believing that its establishment would create new traffic. Witness is the proprietor of a resort caring for 100 to 125 guests annually during the vacation season from May to September. The majority of his patrons come from Oakland and San Francisco, he estimating 60 per cent from the latter point. He has heard complaint from his Oakland patrons regarding the lack of through service.

J. R. Clark, residing at Calistoga and engaged in the real estate business, was of the opinion the proposed service of the California Transit Co. would be a benefit to the Calistoga community, and if it were to be established he would personally use it.

E. S. Bell, an attorney residing at Oakland, a former resident of the Napa Valley for 44 years, and a property owner in said valley, testified he now used his own automobile for his trips between Oakland and his property. If the through service from Oakland, as proposed to be inaugurated by the California Transit Co., were established, it would be used by this witness for the reason the present connections at

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Vallejo were not dependable and the present schedule of arrivals and departures were not suitable for his needs. The witness objected to the present lack of through service and the inconvenience of changing at connecting points.

H. C. Sproule, a florist at Vallejo, desired the establishment of the service proposed by California Transit Co. for the transportation of flowers and floral pieces. Witness has had difficulty in securing satisfactory service from San Francisco, Napa and Calistoga Railway by reason of the fact that express shipments were not transported on all trains. In some instances he had had shipments refused by consignees by reason of late arrival at destination and in others has been obliged, in order to effect delivery, to accompany the shipments to destination.

W. L. Combs, a salesman residing at Vallejo, is in favor of the establishment of the California Transit Co. service to Sacramento and would use such service if inaugurated. The witness prefers to use stage lines on the basis of their convenience.

Fred F. Knipschild, a contractor and salesman, residing at St. Helena, now uses his own automobile on his trips from St. Helena to Oakland. He would use the proposed service of California Transit Co., if authorized, as being more economical than using his own conveyance.

Rev. Jeremiah Galvan, a clergyman of St. Helena, and five years a resident of that community, testified he made trips to Oakland once or twice each month, having relatives and many acquaintances there. He now usually drives his own automobile but sometimes uses the service of the Southern Pacific Company. He prefers the use of his own car but would use stage service if authorized as a through service, the connections at Vallejo having heretofore not been dependable. He believes the proposed service of California Transit Co. would be beneficial to the community at St. Helena and would facilitate travel to and from Oakland and East Bay cities, having knowledge of friends who would use such service from Oakland.

Ned Burgher, residing at Middletown, and justice of the peace in that community, testified that he used his own automobile in his trips to Sacramento but would have used public transportation had it been available, as he does in his trips to San Francisco. Witness is satisfied that travel to Middletown and Lake County points would increase if through service from Calistoga were available. Witness believes the local service in Napa Valley to be good and has no objection to transfers enroute, provided transfers accompany direct and continuous transportation.

J. P. Francisco, proprietor of Harbin Springs, Lake County, testified the capacity of his resort was 77 persons; that the majority of his patronage was secured from San Francisco and the East Bay district;

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and that it would be an advantage if through direct service was inaugurated from Sacramento to Calistoga. The witness prefers to use his own automobile on his trips to Sacramento rather than the service of the Southern Pacific.

Jas. A. Carr, president of Seigler Springs Company, Lake County, testified his resort handled 10,000 guests per annum, 75 per cent originating in San Francisco, 15 per cent in Oakland, the balance from other parts of California; 60 per cent of the resort guests arrive at the resort in their own conveyances, comparatively few from the San Joaquin and Sacramento valleys, although the resort was advertised in Stockton and Sacramento papers; and that no adequate means of direct transportation existed between Oakland and East Bay communities to Lake County, or from Sacramento. Witness believes that business from other points would increase and be comparable to business now enjoyed from San Francisco if the proposed service of California Transit Co. be authorized.

John L. Stubbs, engaged in subdividing Clear Lake Oaks in Lake County, testified he was now working on a subdivision of 2000 acres, having previously subdivided 150 acres from which 700 lots had been sold. Seventy-five to eighty per cent of the lots had been sold to owners residing in the East Bay cities. Witness stated service was needed from Oakland to Clear Lake and that proposed by the California Transit Co. would be of advantage, also greatly assisting in the development of Sacramento. He considers the present transportation facilities between Lake County and Oakland or Sacramento to be inadequate and insufficient. Witness now uses his own automobile to Oakland because of poor connections at Vallejo between stages and the electric railroad. Prospective patrons of his subdivisions are now brought by salesmen's cars or the prospect uses his own automobile. As to choice of service, witness would prefer through stage service between Oakland and Calistoga.

Max C. Hoberg, proprietor Hobergs Resort, in Lake County, and 41 years a resident, testified he had operated the resort for 30 years and now cared for 1200 to 1500 guests during the season of 5 to 6 months of each year. Sixty per cent of his guests arrive by public transportation, and ninety-five per cent of the guests come from the San Francisco Bay region. Practically all guests from Sacramento arrive in private automobiles.

Witness was of the opinion that the proposed through stage service of the California Transit Co. from Sacramento to Calistoga would open the Sacramento territory for Lake County resorts, there being a need for such through transportation. The through service, Oakland to Calistoga, would also be welcomed although the need was not as great as for the service from Sacramento. He would personally use the

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through stage service, if authorized, in preference to the existing service which requires change.

Dr. W. R. Prather, proprietor of Adams Springs, Lake County, testified he had been located at the springs for 37 years; that his resort accommodated 400 to 500 guests, half of which arrived in privately owned automobiles; that the majority of his patronage originated in the San Francisco Bay district; and that he did not consider the present transportation facilities between Sacramento and Calistoga to be good.

E. L. Arnest, secretary of the Clear Lake Chamber of Commerce, testified that his organization favored the establishment of through stage service as proposed by California Transit Co.

J. T. La Brea, vice president of Clear Lake Highlands, Inc., testified his company was engaged in subdivision and had sold approximately 16,000 lots, the majority going to southern California purchasers, 5 or 6 per cent to San Francisco, 10 per cent to Oakland and East Bay community buyers and 15 per cent to San Joaquin and Sacramento Valley purchasers; that salesmen now use their own cars in showing the property to prospective purchasers; and that the service of the California Transit Co. would be used to Calistoga, were same to be authorized. Witness believed more people would visit Lake County from Sacramento if there were a direct line, and cited an instance where passengers were required to remain overnight in Calistoga by reason of no direct connection between stages and the electric line at Vallejo. Eight to ten per cent of the owners of property sold by his company patronize public transportation facilities.

E. J. Cork, assistant ticket agent for California Transit Co., at Richmond, testified that he averaged from four to five inquiries per week for direct stage transportation from Richmond to Calistoga.

H. T. Williams, operating a taxi service at Vallejo, formerly transferred passengers between the stage and electric line depots at that point and continued such service for 14 months, receiving his compensation from the California Transit Co. In connection with his taxi work in Vallejo he still occasionally transfers passengers and has heard inquiries for stage service to points north of Vallejo, the majority of requests being for transportation to Napa but some for Calistoga.

S. T. Lisher, a furniture dealer at Napa, complained as to the lack of through service without change between Oakland and Napa Valley. Witness favors the service proposed by California Transit Co. although believes there is at present sufficient local service by existing facilities between Napa and Calistoga.

O. L. Morrow, in the dyeing and cleaning business at Calistoga, has some of his work done in Vallejo and feels that the present express

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service between Vallejo and Calistoga is not sufficiently frequent for his needs. He would use the proposed express service of the California Transit Co. if same were authorized.

Mrs. Katherine Wolf, residing at and conducting a small resort, known as Shamrock Gardens, two miles from Calistoga, testified as to receiving inquiries for methods of transportation to her resort from Los Angeles and Fresno. If the proposed service of the California Transit Co. were authorized, she would use it and recommend it to her prospective patrons.

Mrs. John Garibaldi, residing at Rutherford, testified as to trips made to Oakland by stage from Napa. Her trips to Sacramento are made in her own automobile. She personally prefers stage service, or in lieu thereof the train service of the Southern Pacific Company. The witness stated that all the people of her community favored the establishment of the proposed California Transit Co. service. By stipulation it was agreed that the testimony of J. Maura of Rutherford would be similar to that of Mrs. Garibaldi.

Oscar Erickson, in the plumbing and sheet metal business at Calistoga, receives express from Oakland and very rarely from Sacramento, the service from the latter point not being satisfactory, so much so that witness has at times used his own automobile for his transportation between Calistoga and Sacramento.

C. E. Bengston, sales manager for Chanslor and Lyon, San Francisco, dealers in automobile parts and accessories, testified as to the use made by his firm of stage transportation in the delivery of shipments.

He averages ten telephone calls daily ordering parts for delivery to points north of Napa, having at least twenty-five regular accounts in such territory. He would use the proposed service of California Transit Co. if same were available. By stipulation it was agreed the testimony of F. B. Krayble of the Triangle Parts Company of Oakland, would be the same as that of this witness.

Dale Amsberry, employed by Colyear Motor Sales, dealers in automobile parts at Oakland, testified he would use the proposed express service of California Transit Co. for shipments to Calistoga and that he now used stage service for his express shipments to Napa.

X. A. Phillips, proprietor, Palace Hotel at Napa and formerly California Transit Co.'s ticket agent at such location, testified of frequent inquiries for stage service, Napa to points north, including Calistoga.

Ezra Casselman, for 53 years a resident of Sacramento, was not satisfied with the existing service from Sacramento to Calistoga as a method of reaching Lake County points, too frequent changes interfering with the trips. Witness is retired from business, does not own

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an automobile, travels extensively and would use the proposed service of California Transit Co., if authorized. Witness prefers stage to train service.

W. G. Stone, traffic manager for Thompson-Diggs Company, wholesale hardware merchants of Sacramento, testified as to the need for the express service proposed by California Transit Co. to points in the Napa Valley where many customers were located. Witness has used service of such company from Sacramento to other localities and has found it to be dependable and satisfactory.

Petitions signed by 108 residents of St. Helena and Rutherford, 146 residents of Lake County, and 106 residents of Calistoga were received, such petitions endorsing through service between Sacramento and Calistoga and between Oakland and Calistoga, serving all intermediate points. The Clear Lake Highlands, Inc., the Clear Lake Highlands Chamber of Commerce and the board of trustees of the town of Calistoga all endorse the application of California Transit Co.

Southern Pacific Company and Monticello Steamship Company protest the granting of the application of California Transit Co. The former company presented evidence as to its time-tables, rates of fare and publicity given in the matter of transportation service to Napa Valley points. The American Railway Express Company also furnished evidence as to its schedules and rates.

W. E. Lawson, residing at Rutherford, protested the authorization of any stage service to any applicant on account of the wear on the highways, the speed of stages, alleged reckless operation and the adding to the density of traffic on the highways.

From the record in this proceeding it is apparent that the passenger revenues of San Francisco, Napa and Calistoga Railway have been steadily decreasing, although there is no evidence as to what condition has been responsible for such result. We believe the rapidly increasing use of the privately owned automobile is the responsible factor and a review of the foregoing consideration of the evidence strengthens such belief, as hotel and resort owners in Calistoga and Lake County uniformly state the greater number of their guests and patrons use their own automobiles in their trips. At the time of the application the reduction in train service proposed by the San Francisco, Napa and Calistoga Railway was justified, as is any economy which can be effected by the management of such company, provided an undue burden or inconvenience is not placed on the traveling public by a reduction in train schedules or curtailment of facilities. We are of the opinion, however, that a substitution of stage service in lieu of the trains proposed to be discontinued is justifiable under the record here presented. The proposed substituted bus service is to be established by a separate corporation and is to be coordinated with the rail

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service under some plan or agreement, the terms of which are not now before us, beyond the fact that the general manager of the railway is also to be responsible for the management of the bus operation and that other operating and executive officials will also act in a dual capacity for the railroad and bus line. The service of the bus line is to be supplanted by that of the railway at any time when the demands of traffic justify and in any event on Saturdays, Sundays and holidays. The trains which were proposed to be discontinued were at the time of the application being operated at a direct loss and the record justifies their discontinuance. By time-table No. 42 of the San Francisco, Napa and Calistoga Railway, effective May 16, 1926, a new schedule was inaugurated which eliminated all "deadhead" or non-revenue passenger mileage. Such elimination is in the interest of economical operation, and according to the testimony of the train master of the railway will effect a considerable saving in operating costs. The new schedule was made possible by a change in the boat schedules of the Monticello Steamship Company between Vallejo and San Francisco. There appears no necessity for the diminution of further schedules, except as may be made possible by the substitution of bus service to coordinate with the train service.

In authorizing the establishment of a bus service as a supplemental service to be coordinated with the present existing rail service, we have fully considered the record and the possibility of conserving to the public the frequency of service heretofore available by the railroad line of the San Francisco, Napa and Calistoga Railway. By the proposed coordinated operation of rail and bus service certain economies may result which will be for the benefit of the territory served and which may offset, in some degree, the increasing reduction in passenger revenue which, as hereinabove stated, appears principally to be caused by the increased use of privately owned automobiles. We are not unmindful of the attitude of many reputable and substantial residents of the communities, who were witnesses giving testimony at the hearings, opposing the authorization of any stages on the highway. It is not the intention that the granting of the application of Napa Valley Bus Company shall be for any other purpose than to furnish a service which when coordinated with the rail service of the San Francisco, Napa and Calistoga Railway will enable the continuance of the frequency and character of service as heretofore given by the railway with its electric trains. The order herein will, therefore, not authorize the establishment of an independent passenger service by motor vehicles and will contain such restrictions as to the Commission appear necessary to accomplish such result.

As to the application of the California Transit Co., we find ample showing as to the convenience to be afforded the traveling public,

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especially as to the proposed through service from Oakland to Calistoga and from Sacramento to Calistoga. As to the necessity, the record fails to justify the granting of the application either as to express or passenger traffic. It is true the various resort owners of Lake County and the hotel and business men of Calistoga favor the establishment of an additional transportation service, but the facilities of the Southern Pacific Company, the Monticello Steamship Company, the San Francisco, Napa and Calistoga Railway, the American Railway Express and the California Transit Co. in the territory in which each transportation company is authorized to operate are in our opinion amply sufficient to care for all reasonable needs of the public, particularly when consideration is given to the large number of visitors in the Napa Valley communities and Lake County hotels and resorts who, in common with Napa Valley residents, use their own automobiles instead of public transportation. The facilities of the present carriers are ample, under the state of facts as appearing in the record, to care for all traffic offering without the establishment of service by another independent carrier, and such adjustments of schedules which may be required to permit proper connections at junction points are matters of minor operating detail which should be placed on a satisfactory basis by the officials of the respective companies to the end that prompt and efficient service may be available for such portion of the public that may elect to use such facilities, and, in our opinion proper cooperation and intensive promotion may hold some of the business which is rapidly being diverted to private automobiles.

After full and careful consideration of all the testimony and exhibits in these proceedings, we conclude that no showing has been made which justifies the granting of the application of California Transit Co.

ORDER.

Public hearings having been held on the above entitled applications, the matters having been consolidated for the purpose of receiving evidence and for decision, having been duly submitted, the Commission being now fully advised and basing its order on the statements and conclusions as appearing in the opinion which precedes this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Napa Valley Bus Company, a corporation, of an auto stage service as a common carrier of passengers between Calistoga, Napa County, and Vallejo, Solano County, under the terms and conditions as appearing in the following order; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is issued to Napa Valley Bus Company, a corporation, for the operation of an auto stage service as a

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common carrier of passengers between Calistoga, Napa County, and Vallejo, Solano County, subject to the following conditions:

1. No authority is hereby conferred authorizing the transportation of baggage, parcels, express or other property, except such hand baggage as may be in the custody of the passenger.

2. No authority is hereby conferred authorizing the establishment of an independent passenger automobile stage line, the certificate hereby granted being intended only for the purpose of coordinating service with the train service of San Francisco, Napa and Calistoga Railway under the terms and conditions of an agreement, which agreement shall be submitted to this Commission for approval as to its form, substance and conditions.

3. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

4. Applicant shall file, in duplicate, within a period of not to exceed thirty days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed thirty days from the date hereof.

5. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

6. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

7. This order shall not become effective until acceptance thereof shall have been filed by applicant, Napa Valley Bus Company, a corporation, and until a Supplemental Order will have been issued by this Commission declaring that an agreement between Napa Valley Bus Company and San Francisco, Napa and Calistoga Railway has been filed herein, which agreement is satisfactory to this Commission as to its form, substance and conditions.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity do not require the operation by California Transit Co., a corporation, of an automobile stage line as a common carrier of passengers and express between Vallejo and Calistoga, California, and intermediate points; and

It is hereby ordered, that Application No. 12510 be and the same hereby is denied.

It is hereby further ordered, that Application No. 12593, San Francisco, Napa and Calistoga Railway, a corporation, to discontinue the operation of certain trains, in so far as same be necessary in con-

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nection with the coordination of train service with the bus service hereinabove authorized by the granting of Application No. 12359, be and the same hereby is granted.

The effective date of this order is hereby fixed as twenty days from the date hereof.

Dated at San Francisco, California, this eleventh day of April, 1927.

DECISION No. 18218.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSPORTATION COMPANY AND CALIFORNIA NAVIGATION AND IMPROVEMENT COMPANY TO SELL THEIR PROPERTIES TO THE CALIFORNIA TRANSPORTATION COMPANY AND THE CALIFORNIA TRANSPORTATION COMPANY TO OPERATE VESSELS, ISSUE THREE MILLION FIVE HUNDRED THOUSAND DOLLARS OF STOCK AND SIX HUNDRED FIFTY THOUSAND DOLLARS OF BONDS.

Application No. 13636.

Decided April 11, 1927.

TRANSFER—INLAND WATER CARRIER—STOCK AND BONDS—TO ISSUE.—California Transportation Company and California Navigation and Improvement Company authorized to sell their properties to The California Transportation Company, and the latter is authorized to issue at this time $750,000 of stock, and $650,000 of bonds in part payment therefor and to finance construction and acquisition of steamers *Delta King* and *Delta Queen*.

CERTIFICATE—TO OPERATE—STEAMBOATS—WAREHOUSES.—Certificate granted The California Transportation Company to operate the property acquired under Commission's authorization.

W. H. Metson, for Applicants.
D. Canny, for State Banking Department.

BY THE COMMISSION.

OPINION.

In this proceeding the Railroad Commission is asked to make its order as follows:

1. Authorizing California Transportation Company and California Navigation and Improvement Company to transfer their businesses, properties and assets to The California Transportation Company, and The California Transportation Company to acquire said businesses, properties and assets;

2. Declaring that public convenience and necessity require, and will require, The California Transportation Company, as a common carrier, to operate, or cause to be operated, vessels between points exclusively on the inland waters of this state;

3. Authorizing The California Transportation Company to issue and deliver $2,500,000 par value of its capital stock to California Transportation Company and $1,000,000 par value of its capital stock to California Navigation and Improvement Company as part consideration for the transfer of said properties and assets of said corporation;

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4. Authorizing The California Transportation Company to execute its first mortgage covering the lands and vessels so to be acquired by it, to secure an authorized issue of $650,000 of its first mortgage sinking fund 6 per cent gold bonds;

5. Authorizing The California Transportation Company to issue and deliver said $650,000 of bonds to Anglo London Paris Company at the price and on the terms hereinafter mentioned; and,

6. Approving the agreement with Anglo London Paris Company for the sale of said bonds.

In brief, this application involves the consolidation under the ownership of one corporation, The California Transportation Company, of two businesses and properties now owned by two separate corporations (California Transportation Company and California Navigation and Improvement Company) and the issue by the new corporation of $3,500,000 of stock in part payment for such properties and of $650,000 of bonds in part payment for two new steamers.

Both the California Transportation Company and the California Navigation and Improvement Company are now and have been for many years last past operating steamboats. The points between which the California Transportation Company is now operating are set forth in its "Local and Joint Freight Tariff No. 10-E, C. R. C. No. 47, effective July 1, 1922;" in "Local and Joint Freight Tariff No. 9-D, C. R. C. No. 54, effective March 1, 1927;" in "Local Passenger Tariff No. 6-C, C. R. C. No. 54, effective October 10, 1925;" and supplements thereto now on file with the Commission.

The points between which California Navigation and Improvement Company is now operating are set forth in its "Local and Joint Freight Tariff No. 8-D, C. R. C. No. 14, effective March 1, 1927;" and in "Local Passenger Tariff No. 7-A, C. R. C. No. 5, effective June 18, 1925" now on file with the Commission.

In general it may be said that the California Transportation Company is operating vessels between points on the San Joaquin and Sacramento rivers and tributaries thereto, and San Francisco, Oakland and Encinal terminals, Alameda. The California Navigation and Improvement Company on the other hand is operating vessels between points on the San Joaquin River and tributaries thereto and San Francisco, Oakland and Encinal terminals, Alameda. The Improvement Company also is engaged in a warehouse business at Stockton.

It appears that there is a community of interest between the two corporations; the entire outstanding stock, save directors' qualifying shares, of California Navigation and Improvement Company are being held by or for California Transportation Company. The application indicates, however, that it is now thought desirable to organize a new corporation to take over and operate the two businesses and properties

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as one entity and to that end there has been formed The California Transportation Company.

The articles of incorporation of The California Transportation Company show that it was incorporated on or about March 30, 1927, with an authorized capital stock of $5,000,000, divided into 50,000 shares of the par value of $100 each, all common, of which the corporation now proposes to issue 35,000 shares of the total par value of $3,500,000 in purchasing the properties of the present two companies. These properties include water front and terminal grounds located at Martinez, New Hope Landing, Walnut Grove, Rio Vista, Grand Island, Pittsburg and Stockton; improvements on properties owned in fee and leased, consisting of wharves, docks, terminals and offices and equipment; a shipyard and warehouse at Stockton, and other miscellaneous properties, and the following floating equipment:

Steamer *Fort Sutter,* Steamer *Capital City,* Steamer *J. D. Peters,* Steamer *T. C. Walker,* Steamer *Reform,* Steamer *Isleton,* Steamer *Pride of the River,* Steamer *Capt. Weber,* Steamer *Aurora,* Steamer *Leader,* Barge *Onisbo.*

In addition, there is now under construction by California Transportation Company, two new steamers to be known as *Delta King* and *Delta Queen.*

At the hearing held in this matter, applicants introduced into the record as Exhibit "1" an appraisal prepared by George A. Armes, president of the General Engineering and Drydock Company, of Alameda, showing the total estimated present value of the floating equipment, including the *Delta King* and *Delta Queen,* when fully built and equipped, at $3,354,250; and as Exhibit "3" an appraisal prepared by The American Appraisal Company showing the estimated reproduction cost new of the remaining property, exclusive of merchandise and supplies, at $869, 281.43, and the estimated depreciated cost at $715,544.62.

Upon acquiring the two properties The California Transportation Company proposes to execute a mortgage on the properties to secure the payment of an authorized issue of $650,000 of first mortgage 6 per cent bonds due March 1, 1939, and to sell such bonds, at 93½ per cent of face value and accrued interest to Anglo London Paris Company for the purpose of financing in part the cost of the two steamers, *Delta King* and *Delta Queen* now under construction. The cost of these two vessels, including labor and material only, is estimated from $750,000 to $800,000 each. To March 1, 1927, it appears that $1,307,602.76 had been expended. It is said that the cash funds of the two companies combined will not be sufficient to pay the indebtedness incurred in making such expenditures and to meet the total cost, so that it is necessary to issue the $650,000 of bonds. In this connection, the balance

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sheet of California Transportation Company shows outstanding on March 1st, loans and bills payable of $852,000 and audited vouchers and wages payable at $360,636.90.

Representatives of the Commission have not yet completed their examination of the appraisals submitted. It is urged, however, that applicants have need for the cash which will be realized from the sale of the $650,000 of bonds, to pay indebtedness incurred to construct the *Delta King* and *Delta Queen*. They request that a preliminary order be entered authorizing the issue of the bonds and some of the stock.

We believe that such request should be granted. The order herein will authorize The California Transportation Company to issue and sell the $650,000 of bonds, and issue $750,000 of stock subject to the provisions of the order. When the Commission's representatives have completed their examination of the appraisals and properties of applicant, consideration will be given to the issue of additional stock by The California Transportation Company to pay for the properties it intends to acquire.

The matter of authorizing The California Transportation Company to execute a mortgage or deed of trust to secure the payment of the $650,000 of bonds will also be considered in a supplemental order.

Applicants ask this Commission to approve the agreement between them and Anglo London Paris Company covering the sale of the $650,000 of bonds. We will not at this time approve such agreement in all of its particulars. As stated, we will authorize the issue and sale of the $650,000 of bonds, according to the terms of the order, and approve the agreement only to the extent it affirmatively appears in the order herein.

The California Transportation Company intends to operate, and asks permission to operate, between all the points set forth in the tariffs of California Transportation Company and California Navigation and Improvement Company now in effect and on file with the Railroad Commission. Such request we believe should be granted. Representatives of the two existing companies have agreed that upon the granting of the certificate prayed for, those companies would surrender and abandon their present operative rights.

No one appeared at the hearing to protest the granting of this application.

ORDER.

Application having been made to the Railroad Commission, as indicated in the foregoing opinion, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that it should at this time issue a preliminary order to the extent indicated herein, and that the issue at this time of $750,000 of stock and $650,000 of bonds is reasonably required by applicant and

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that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income:

The Railroad Commission hereby declares that present and future public convenience and necessity require and will require the operation by The California Transportation Company of vessels as a common carrier, between the points set forth in the tariffs of California Transportation Company, and California Navigation and Improvement Company, to which reference has been made in the foregoing opinion, and at the same rates and charges now made by such companies;

It is hereby ordered, that a certificate of public convenience and necessity be and it hereby is granted to The California Transportation Company, in accordance with the foregoing declaration.

It is hereby further ordered, that California Transportation Company and California Navigation and Improvement Company be and they hereby are authorized to transfer their businesses, properties and assets, subject to outstanding debts and liabilities to The California Transportation Company, and The California Transportation Company be and it hereby is authorized to acquire such businesses, properties and assets and to issue in part payment, at this time, not exceeding $750,000 of its common capital stock.

It is hereby further ordered, that The California Transportation Company be and it hereby is authorized to issue and sell, at not less than 93½ per cent of face value plus accrued interest, $650,000 of first mortgage sinking fund 6 per cent gold bonds due March 1, 1939, and to use the proceeds to pay indebtedness incurred in the construction of the steamers *Delta King* and *Delta Queen* and assumed by The California Transportation Company, and to finance in part the cost of constructing said two steamers.

The authority herein granted is subject to the following conditions:

1. California Transportation Company and California Navigation and Improvement Company shall cancel immediately all time schedules, tariffs and classifications now on file with the Railroad Commission in their names, and The California Transportation Company shall file in its own name time schedules, tariffs and classifications.

2. The California Transportation Company shall file with the Commission for approval a copy of the entries by which it records on its books of account the purchase of the properties of California Transportation Company and California Navigation and Improvement Company.

3. The California Transportation Company shall keep such record of the issue and sale of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or about the

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twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to issue bonds will become effective when applicant, The California Transportation Company, has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $650, and when the Commission by supplemental order in this proceeding has authorized the execution of a mortgage or deed of trust to secure the payment of said bonds. In other respects the authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this eleventh day of April, 1927.

DECISION No. 18219.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR AN ORDER GRANTING PERMISSION TO INCREASE PASSENGER RATES AND FARES BETWEEN POINTS IN THE STATE OF CALIFORNIA.

Application No. 13460.

Decided April 12, 1927.

RATES—ELECTRIC RAILWAY—EXPERIMENTAL INTERURBAN—TO INCREASE.—Temporary experimental one-way, round trip and commutation fares between Los Angeles, Glendale and Burbank authorized by agreement of representatives of interested municipalities.

Frank Karr and *C. W. Cornell*, for the Applicant.
Leonard A. Diether, Deputy City Attorney, for Protestant City of Pasadena.
Frank L. Perry, City Attorney of the cities of Redondo Beach and Manhattan Beach, for Protestants City of Redondo Beach and City of Manhattan Beach.
Clyde Bishop, City Attorney, for Protestant City of Newport Beach.
Jess E. Stephens, City Attorney; Milton Bryan, Deputy City Attorney; J. L. Ronnow, Deputy City Attorney; J. O. Marsh, Manager and Chief Engineer, Board of Public Utilities; Fred F. Ball, Special Engineer, Board of Public Utilities of the City of Los Angeles, for Protestant City of Los Angeles
H. E. Vedder, City Attorney, for Protestant City of South Pasadena.
A. M. Pence, City Attorney, for Protestant City of Covina.
Charles J. O'Connor, City Attorney, for Protestant City of Colton.
E. F. Bogardus and *Carl Bush*, for Protestant Hollywood Chamber of Commerce.
D. C. Gould, City Attorney, for Protestant City of Alhambra.
Bruce Mason, City Attorney, for Protestant City of Long Beach.
A. G. Wray, City Attorney, for Protestant City of Whittier.
Walter M. Dunn and *John A. Sturgeon*, for Protestants cities of Arcadia and El Monte.
W. H. Engle, for Protestant Northwest Chamber of Commerce.
Ray L. Morrow, City Attorney, for Protestant City of Glendale.
W. H. Woodard and *Earl W. Porter*, for Protestants Venice Branch of the Los Angeles Chamber of Commerce, Citizens Rate Committee of Venice, and the citizens of Venice.
Clyde Woodworth, City Attorney, Inglewood, El Segundo and Hawthorne, for Protestants cities of Inglewood, El Segundo and Hawthorne.
James H. Mitchell, City Attorney, for Protestant City of Burbank.
Charles A. Rolfe, Chairman of Transportation Committee, City of Redlands, for Protestant City of Redlands.
Jess E. Stephens and *Milton Bryan* for Protestant Committee of City Attorneys Association of Southern California.

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George A. French, City Attorney, for Protestant City of Riverside.
Carson B. Hubbard, City Attorney, for Protestant City of Huntington Park.
Davenport R. Phelps, Secretary-Manager, West Hollywood Chamber of Commerce, for Protestant West Hollywood Chamber of Commerce.
Herb H. Shiels, for Protestant Culver City and for Protestant Citizens Rate Committee of Venice.
R. C. Waltz, City Attorney, for Protestant City of Beverly Hills.
Chester L. Coffin, City Attorney of Santa Monica, for Protestant City of Santa Monica.
C. A. Bland, for Protestant Chamber of Commerce of Long Beach.
E. H. Jolliffe, City Attorney, for Protestant City of Ontario.
Mrs. Sarah M. Skinner, for Protestant Harriman Avenue, South Pasadena.
J. J. Deuel, for Protestant California Farm Bureau Federation.
Joseph A. Allard, City Attorney, City of Pomona, Claremont and La Verne for Protestants cities of Pomona, Claremont and Le Verne.
Leopold Jacobson, Protestant, *pro se*.
C. A. Bridge, City Attorney, for Protestant Hermosa Beach.
Frank W. Forester, for Protestant Knights of Pythias 107 California Pomona Lodge.
W. H. Powell, for Protestants East Hollywood Improvement Association, Bus Committee of Hyperion Avenue and Silver Lake Glendale Boulevard Motor Coach.

WHITSELL, *Commissioner*.

OPINION ON SUPPLEMENTAL APPLICATION.

The Pacific Electric Railway Company, on January 11, 1927, filed an application with this Commission for an order granting permission to increase passenger rates and fares over practically all of its interurban and local railway system. On March 8, 1927, applicant filed a supplemental application in this proceeding in which authority was asked to put into effect, as a temporary experiment and for purposes of observation during the hearings on the main rate case, a schedule of reduced one-way, round-trip and thirty-ride rates, with an elimination of all other commutation rates. The lines included in the supplemental application consisted of a group of the shorter interurban lines.

Public hearings were held in Los Angeles on the original application, on March 10 and 11, 1927, and on the supplemental application on March 11 and 30 and April 5, 1927. At the hearing on April 5th the record, in so far as it related to the supplemental application, was submitted and is now ready for decision.

During the hearings on the supplemental application, many of the communities protested the placing in effect of the proposed trial rates. Agreement was reached, however, between applicant and representatives of the cities of Los Angeles, Glendale and Burbank that an experimental rate schedule might be placed in effect on the Glendale-Burbank line of applicant, the basis of determining the rates to be as follows:

> **One-way fare**—Based on rate of 2 cents per mile, but with the nearest 5-cent multiple. Minimum fare 10 cents except where the present fare is 6 cents no changes shall be made in such fare.
>
> **Round-trip fare**—To be 5 cents less than twice the one-way fare between all points where one-way fare is 15 cents or greater, no reduction where fare is 10 cents or less.
>
> **A 30-ride, 90-day family commutation book**—To be sold at 20 per cent less that 30 one-way fares, except that this form of ticket will not be sold between points where the one-way fare is 10 cents or less.

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A 60-ride, 40-day individual commutation book—To be sold at all points where it is now in effect, at an increase of 20 per cent above existing rates, except that this form of ticket will not be sold between points where the one-way fare is 10 cents or less.

Ten-ride, week-day and monthly commutes to be discontinued.

It was further agreed that these rates should remain in effect for a period of at least four months and longer if it is found that the revenue on this line does not lessen more than $4,000 per month, as compared to the present revenue, but in no event are the temporary rates to remain in effect beyond the effective date of the decision on the original application.

The city of Burbank stressed the necessity for improved service on this line, referring particularly to a needed decrease in the running time. Both applicant and the cities of Los Angeles, Glendale and Burbank agreed to assist in every reasonable manner in the improvement of the service on the line.

No party to the record in this proceeding protested the granting of authority to put into effect the experimental rates on the said Glendale-Burbank line as above stated. Applicant stipulated that the supplemental application be amended to apply only to this line and in accordance with the agreed plan.

From a consideration of the evidence, I am of the opinion that the fare schedule, as agreed to between the parties, and as outlined above, is worthy of trial and should temporarily be placed in effect for experimental or test purposes. Suitable records should be kept by applicant in order that results of such an experimental rate structure may be observed. All reasonable betterments in the service on this line, including lessened running time between terminals, should also be made and to this end our engineering department has been instructed to proceed to a consideration of the service on this line as promptly as possible in connection with the study now being undertaken on applicant's entire system.

The following form of order is proposed:

ORDER.

Pacific Electric Railway Company having applied to the Commission for permission to put into effect, for a limited period, certain experimental rates on a portion of its interurban system for the purpose of determining the effect upon traffic, public hearings having been held, the supplemental application having been amended to provide for an experimental rate structure to apply on the Glendale-Burbank line, the parties having stipulated their willingness to accept this modified plan, and no protests having been entered in opposition to the placing in effect of such rate schedule; therefore,

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It is hereby ordered, that applicant, Pacific Electric Railway Company, be and it is hereby authorized to establish and file on one day's notice to the Commission and to the public, one-way, round-trip, thirty-ride family commutation fares and sixty-ride individual commutation fares on its Glendale-Burbank interurban line, upon the following plan:

1. One-way fares shall be based on 2 cents per mile, using the nearest 5-cent multiple, minimum fare 10 cents, except where the present one-way fare is 6 cents no change shall be made in such fare.

2. Round-trip fares shall be double the one-way fare where the one-way fare authorized herein is less than 15 cents. Where the one-way fare authorized herein is 15 cents or greater, the round-trip fare shall be 5 cents less than double the one-way fare.

3. Thirty-ride family commutation fares shall be 80 per cent of thirty one-way fares except that no thirty-ride family commutation fares will be published between points where the one-way fare authorized herein is less than 15 cents.

4. Sixty-ride individual commutation fares shall be 120 per cent of the present sixty-ride individual commutation fares except that no sixty-ride individual commutation fares will be published between points where the one-way fare authorized herein is less than 15 cents.

5. Adjustments not specifically authorized in this order may be referred to the Commission for determination.

6. These rates to remain in effect for a period of four months and longer if it is found that the revenue on this line does not lessen more than $4,000 per month, as compared to the present revenue, but in no event are the temporary rates to remain in effect beyond the effective date of the decision on the original application.

It is hereby further ordered, that applicant, Pacific Electric Railway Company, be and it is hereby authorized to suspend, on one day's notice to the Commission and to the public, concurrently with and during the period the fares authorized in the preceding paragraph remain in effect, all ten-ride, week-day and monthly commutation fares now in effect on the Glendale-Burbank Interurban Line.

It is hereby further ordered, that applicant, Pacific Electric Railway Company, shall keep a record of the revenue received from the fares herein authorized in such manner that the effect of such fares readily may be analyzed. Monthly reports showing the results obtained from the fares herein authorized shall be filed with the Commission.

The Commission reserves the right to make such further orders in this matter as to it may seem right and proper.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this twelfth day of April, 1927.

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DECISION NO. 18222.

CALIFORNIA TRANSIT COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 2208.

Decided April 13, 1927.

RATES—VEHICLE FERRY—AUTO STAGES.—**Finding that Southern Pacific Company is warranted in collecting the rate for trucks for the transportation of auto stages of complainant, the Commission dismisses the complaint, instructing defendant carrier to file the regularly collected rate for stages to prevent further misunderstanding.**

Earl A. Bagby, for Complainant.
H. W. Hobbs and *F. W. Mielke*, for Defendant.
W. P. Geary, Rate Department, for the Commission.

BY THE COMMISSION.

OPINION.

This is a matter initiated upon complaint of the California Transit Company asking that the Southern Pacific Company be directed to make reparation to it on account of certain alleged excessive and discriminatory charges for the transportation of its automobile stages between San Francisco and Oakland Pier on defendant's vehicular ferry under certain named tariffs, together with interest from December 15, 1925, and further praying that defendant be required to adjust its tariffs for said carriage in the future. Specifically, defendant is charged with having improperly rated complainant's automobile stages and busses as "trucks" under its said tariffs, rather than as "automobiles." The reasonableness *per se* of the rates charged or the fares of passengers transported in the stages are not involved.

Defendant filed a petition to dismiss this complaint on jurisdictional grounds, and later filed its answer alleging that this Commission possesses no jurisdiction over the transportation services covered by this complaint, and further that the service performed by defendant for complainant in transporting its automobile stages between said points are not covered by the tariffs mentioned in said complaint. Further answering the complaint, defendant alleges that it has collected charges for the transportation of complainant's stages while engaged in the operation of complainant's common carrier service in the sum of $1.40 for each auto stage so transported, this being the rate as provided in defendant's tariffs for "trucks," plus a sum, prior to December 16, 1925, of eight cents for the driver and each passenger so transported, and since December 16, 1925, the sum of five cents for the driver and each such passenger. It denies that the lawful or authorized tariff rate or charge per vehicle for the transportation of complainant's auto stages while engaged in complainant's common carrier service is the sum

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mentioned in said complaint, and finally alleges that the amount of such charges is a matter for arrangement, understanding or contract between the complainant and defendant and is not a matter subject to the jurisdiction of this Commission.

A stipulation was filed presenting the salient and agreed facts of the transportation here involved. This stipulation discloses that during all of the times mentioned in the complaint, defendant has operated a common carrier ferry between San Francisco and Oakland Pier for the transportation of vehicles and their drivers together with the passengers or property transported therein; that during said time defendant has maintained certain published tariff rates and regulations governing such transportation, which tariffs are designated as "Southern Pacific Local Freight Tariff No. 380-K, C. R. C. No. 2612," and "Local Passenger Tariff BM-No. 1, C. R. C. No. 2979," both effective July 1, 1921, together with revisions thereof and supplements thereto; "Southern Pacific Company Local Passenger Tariff A-No. 1, C. R. C. No. 2909," effective August 26, 1920, together with the revisions therewith and supplements thereto, and "Southern Pacific Company Local Passenger Tariff A-No. 2, C. R. C. No. 4176," effective January 25, 1926. It is further stipulated that, during said time, defendant has accepted and transported indiscriminately on said vehicular ferries between San Francisco and Oakland Pier, all automobiles, taxicabs and rent cars applying to defendant for transportation between San Francisco and Oakland, regardless of whether such vehicles were operated for private or public use, or as a common carrier, or were being operated for compensation, or otherwise, charging therefor the same rate or charge fixed by said published tariff of defendant for the transportation of "automobiles" on said ferries, and also all motor vehicle stages or busses and sightseeing busses, including complainant's stages and busses, that applied for such transportation, regardless of whether such vehicles were being used for public or private purposes, or as common carriers, and regardless of whether or not the same were then transporting passengers for compensation, or otherwise, charging therefor the same rate or charge as is fixed in said published tariff for the transportation of auto "trucks." The stipulation further shows that no express contract or agreement, as distinguished from the general implied contract of carriage, has existed between complainant and defendant covering said transportation, and that defendant has not at any time refused to transport complainant's vehicles upon the ground that they are being used in the business of transporting persons or property as a common carrier.

After the first hearing in this matter, voluminous briefs were filed by the parties upon the question of jurisdiction raised in defendant's motion to dismiss. The position of defendant on that motion, as restated

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in its reply brief on the merits filed with the Commission March 25, 1927, was "based wholly upon the proposition that defendant is not a common carrier in so far as regards complainant's stages while employed by complainant in its common carrier service and that, therefore, the tariff does not apply to those stages, but that the charges are a matter of private contract between the complainant and defendant and not subject to regulation by this Commission." The same brief declares further that defendant's motion "was based upon the sole ground that defendant could not be made a common carrier with respect to transportation of complainant's stages while in common carrier service."

This motion to dismiss was denied by the Commission upon the ground that, irrespective of whether complainant's stages were being used in the common carriage of persons or property at the time of their transportation upon defendant's ferry, defendant has never refused to receive and transport such stages and has by its acts dedicated its ferry service to the transportation of such auto busses or stages and their passengers and such property as is carried thereon. We shall not discuss this matter at length, it being our opinion that the determination so made upon said motion to dismiss was proper, and that defendant is in no position to contend, at this time, that it is not transporting the stages and auto busses of complainant in its general business of common carriage by vehicular ferry upon the bay of San Francisco. We are further of the opinion that the decision of the United States Supreme Court in the so-called "Express cases," 117 U. S. 1, 29 L. Ed., 791 has no application to the situation herein presented.

Upon the denial of this motion to dismiss, hearing was had upon the merits of the issues herein raised, and briefs dealing with the merits of the case were filed by the parties, the sole question before this Commission at this time being whether the defendant assessed and charged for the transportation of complainant's auto stages and busses upon the vehicular ferry above mentioned, rates in accord with its legally published tariff. No specific rate covering auto stages or auto busses is named in tariffs on file with this Commission, it appearing that the tariffs above mentioned provide only for a certain rate to be assessed for the transportation of "automobiles," and other rates to be assessed for "trucks" according to weight, together with a rate for persons accompanying said vehicles. Complainant's stages were assessed the rate applicable to "trucks" weighing 4000 pounds or over, plus the passenger rate for the driver and each passenger.

The sole question now at issue is, therefore, whether defendant correctly rated the auto stages and busses of complainant by analogy as "trucks" instead of "automobiles." There is no provision in these tariffs providing that articles can not be rated by analogy, and if defendant was correct in its rating of said vehicles, this complaint must

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be denied. If, on the other hand, these vehicles should have been rated as "automobiles," reparation should be directed to be paid in the amount of all charges collected from complainant in excess of the rates applicable to "automobiles," and defendant should be required henceforth to rate and assess charges for the transportation of said vehicles as "automobiles" rather than as "trucks," until it shall have filed and published tariffs specifically applicable to automobile stages or busses.

It appears to us that the question involved is a simple one, to wit: whether or not, from a transportation standpoint, the vehicles here in question are more similar in character to "trucks" than to "automobiles." In the absence of specific tariff provisions covering articles transported, it is necessary in determining the rate applicable to consider the transportation characteristics of the particular article in question. Thus, in the case of *Chase Companies* vs. *Director General*, 81 I. C. C. 207, the Interstate Commerce Commission declared:

> It is the character of an article from a transportation standpoint, and not the use of which parties may contract that it shall be put, that determines the rate or rating applicable.

While it is true that the tariffs above mentioned do not rate the vehicles which they purport to cover according to length or width, and while it is true that the only rating made is as between "automobiles" on the one hand and "trucks" on the other, a segregation is made for the transportation of trucks which provides that trucks under 4000 pounds shall be assessed at a certain rate and trucks over 4000 pounds shall be assessed at another and higher rate.

The evidence shows that complainant's automobile stages or busses here in question are used by complainant in rendering its services as a common carrier. These stages or busses have a passenger vehicle body built on a chassis closely resembling a truck chassis and are 28 feet 5½ inches long, 8 feet 6 inches wide, weigh on an average of 9300 pounds, and have a passenger carrying capacity of approximately 26 to 28 passengers. The evidence also shows that the average length and width of 10 representative makes of automobiles was 12 feet 8 inches and 5 feet 6 inches, respectively, and of 38 representative makes of automobile trucks, 21 feet 10 inches and 6 feet 6½ inches, respectively. In this respect it appears that complainant's auto stages bear a closer relationship to the transportation characteristics of an automobile truck than to an automobile.

Considering all of the conditions of the transportation here in question, it therefore seems evident to us that, from a transportation standpoint, the vehicles mentioned in this complaint are more properly to be rated under the heading of "trucks" than under that of "automobiles." Moreover, this has been the prevailing practice, extending

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over a long period of years, and the evidence in this case shows that, in all other instances of vehicular ferry service on the bay of San Francisco where specific rates are not filed by carriers for the transportation of "auto busses" or "auto stages" the custom of the several carriers has been to apply the truck rate rather than the "automobile" rate to such auto busses or stages.

This case is in many respects similar to the recent case before this Commission entitled *Gilmore Oil Co.* vs. *A. T. and S. F. Ry. Co. et al.*, in which in our Decision No. 17694, we determined that certain "refinery tops" transported for that complainant had, under general transportation practice, long been transported at rates applying to "gas oil," which established practice justified, in our opinion, the fair assumption that the term "gas oil" was and is meant to be descriptive of such "refinery tops." In the present case it appears that for a number of years it has been the practice of transportation companies by vehicular ferry not publishing commodity rates for auto stages or busses to charge for their carriage the truck rather than the automobile rate, and we believe that the evidence herein discloses such practice to be justified, in that such auto busses and stages are more nearly similar and analogous, from a transportation standpoint, to trucks than they are to automobiles. We are not impressed by the argument that the purposes for which the auto stages or busses are used, *i. e.*, to transport passengers rather than goods, requires a determination from us that, from a transportation standpoint, they must be rated under this tariff as "automobiles."

We do not wish to be understood as holding that ordinary touring cars, sedans, or the like, which are being used to transport persons for compensation are to be rated as "trucks," and we believe that defendant should at once file with this Commission proper tariffs showing rates specifically covering the various types of auto busses and stages which it carries upon its vehicular ferries, in order that no further question or doubt may arise as to the proper rating of such vehicles.

ORDER.

Complaint having been made by California Transit Company, a corporation, against Southern Pacific Company, a corporation, asking for reparation as above outlined; hearings having been had; briefs having been filed; the Commission now being fully informed in the premises; and it appearing that the proper tariff rate has been assessed for the carriage hereinabove mentioned,

It is hereby ordered, that the complaint herein be and the same is hereby denied.

Dated at San Francisco, California, this thirteenth day of April, 1927.

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DECISION NO. 18247.

J. H. WOOLLET

vs.

COMPANIA DE TRANSPORTES DE LA BAJA CALIFORNIA, S. A. (LOWER CALIFORNIA TRANSPORTATION COMPANY.)

Case No. 2220.

Decided April 16, 1927.

COMMISSION'S JURISDICTION—AUTO STAGES—INTERNATIONAL OPERATION.—The complaint is dismissed for lack of jurisdiction.

Richard T. Eddy, for Complainant.
Warren E. Libby, for Defendant.

BY THE COMMISSION.

OPINION.

J. H. Woollet, complainant herein, operates stage service for the transportation of passengers and baggage express between San Diego and Ensenada, Mexico, via Tia Juana, Mexico. In this proceeding, he complains that the defendant is conducting operations similar to his own by the same routes without authority from this Commission, and in violation of the Auto Stage and Transportation Act (chapter 213, acts of 1917, as amended), to his injury and to his loss of business and patronage; and as a remedy, complainant asks an order from this Commission requiring it to cease and desist from further operations until it has received from this Commission a certificate of public convenience and necessity authorizing a resumption of service for the transportation of passengers between San Diego and Tia Juana, California. Defendant corporation, answering the amended complaint, admits the operation of an automobile stage line between San Diego, California, and Ensenada, Mexico, but denies separately each of the allegations of the complaint as to the allegation that by reason of rules at the Mexican border stages are required to discharge their passengers on the American side and reembark them on the Mexican side as alleged by complainant. Upon the issues thus joined, the matter was heard by Examiner Williams at San Diego, and is now under submission.

Complainant Woollet received from the Railroad Commission by Decision No. 13425 on Application No. 9524, a certificate of public convenience and necessity, authorizing him to establish operation "as a common carrier of passengers and express matters not over one hundred pounds in weight, and only such express matter as may be carried on passenger stages without inconvenience or discomfort to passengers over and along the following route by the paved highway between San Diego and the California border at Tia Juana, Mexico." The order also provided: "That applicant shall not transport any

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passengers or express matter locally between San Diego and Tia Juana, Mexico, both points inclusive, in either direction." It is upon this order the complainant bases his complaint asking this Commission to make similar requirements as to the defendant corporation under the "Auto Stage and Truck Transportation Act (chapter 213, acts of 1917, as amended)."

There is little disagreement between complainant and defendant as to the actual facts which appear in the record. Woollet established operation between San Diego and Ensenada in 1922 on regular schedule. In 1924, he was advised by counsel that he required a certificate for the operation of the portion conducted in the State of California, and thereupon made application for the same. At that time, the Commission asserted its right to regulate interstate carriers and similar traffic with foreign nations so far as their operations in California are concerned, as within its jurisdiction, and upon affirmative showing of Woollet, and without opposition, the certificate was granted. However, this certificate, in effect, is little more than permission to operate stages for a distance of sixteen miles in California over the route selected, as there was no intention to transport any passengers, express or baggage from point to point in the State of California.

In August, 1925, defendant corporation, organized under the laws of Mexico, established transportation service by auto stage between Tia Juana and Ensenada, Mexico, and began selling through tickets from San Diego to Ensenada via the San Diego and Arizona Railroad. After using this method for several months, the company ceased railway cooperation and transported passengers through by stage from San Diego to Ensenada, and in the reverse direction. This situation continued until July, 1925, when in response to alleged orders from the mayor of Tia Juana; both stage operators stopped their vehicles on the American side, their passengers walking across the border and resuming their journey on the Mexican side.

At the hearing, a great deal of testimony was introduced in reference to this order and a translation of it was placed in evidence. The assumption that this order, however, was authenticated by any national department of the Mexican government is not borne out by the testimony, and it appears to have been a local regulation at the border, made upon the authority of the governor of Lower California. Whatever its intent or effect may have been at this particular point—and the only point to which it applied—it did not, on its face, impose any restrictions upon companies nationalized in Mexico, and the defendant company is indisputably a Mexican corporation. Other aspects of the origin and effect of the order were the desire of the officials at Tia Juana to protect bus operators between the border and the old town of Tia Juana, and to forbid the transportation of passengers from the

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border to the old town by through carriers. Whatever legal effect this order may have had, it does not appear to have been more than ordinary police regulation at the border.

Although defendant in its answer alleges that it was complying with this order, at the time of the hearing it was testified that the order was no longer complied with because the defendant had investigated every official source in Mexico to find the authority for the order and had been assured that it is not enforceable against defendant.

Since November, 1926, defendant has transported its stages and passengers across the border without disembarkation. At the time of the hearing, the same situation did not apply to complainant, who was still requiring passengers to disembark, walk across the border, and resume the journey in the same vehicle.

Both complainant and defendant sell through tickets from San Diego and Ensenada. Both traverse the same route and both transport passengers from Tia Juana, Mexico, to Ensenada and intermediate points. There appears to be no substantial difference in their operations in any respect except that complainant requires his passengers to walk across the border while defendant does not. It is the contention of complainant that this Commission should require defendant, or any other operator, to procure a certificate similar to his own for operation over the highways in California, and that he has not been informed by the Commission that his certificate is inoperative.

Based upon decisions rendered by the United States Supreme Court in the *Duke Cartage Case,* 268 U. S. 570; *Buck* vs. *Kuykendall,* 267 U. S. 307, and *Bush & Sons* vs. *Malloy,* 267 U. S. 317, this Commission determined in Decision No. 16408 on applications numbered 9808, 9681, 9561, 9758 and 9783, dated April 5, 1926, that it has no jurisdiction over operations exclusively of an interstate character except as to reasonable restrictions upon the use of the highways in this state with respect to safety upon and conservation of the same. The principles enunciated in that decision with respect to interstate commerce apply equally as to commerce with foreign nations. It is our opinion, therefore, that this complaint should be dismissed. An order will be entered accordingly.

It is to be borne in mind that the California Legislature of 1925 passed an amendment to section 9 of chapter 213 of the acts of 1917 (Auto Stage and Truck Transportation Act), which provides:

> Neither this act nor any provision thereof shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this union, except in so far as the same may be permitted under the provisions of the constitution of the United States and the acts of congress; *provided, however,* that with reference to transportation companies operating solely in interstate commerce between any point or points within this state and any point or points in any other state or in any foreign nation, the railroad commission shall have the power to prescribe such reasonable, uniform and non-

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discriminatory rules and regulations in the interest and aid of public health, security, safety, convenience and general welfare as shall in its opinion be required by public convenience and necessity. (Amended, Ch. 254, Stats. 1925, p. 433.)

Under this provision auto carriers engaged in foreign commerce will be required to comply with such rules and regulations as this Commission, under such authority, has established or shall establish.

ORDER.

J. H. Woollet having made complaint against Compania de Transportes de la Baja California, S. A. (Lower California Transportation Company), as above-entitled, a public hearing having been held thereon, the matter having been duly submitted by the parties upon stipulation of facts, and the Commission being now fully advised;

It is hereby ordered, that the complaint herein be and the same is hereby dismissed for want of jurisdiction.

Dated at San Francisco, California, this sixteenth day of April, 1927.

DECISION No. 18248.

IN THE MATTER OF THE APPLICATION OF NORTH FORK DITCH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO MORTGAGE PROPERTY AND TO EXECUTE MORTGAGE AND MORTGAGE NOTE.

Application No. 13605.

Decided April 16, 1927.

SECURITIES—PROMISSORY NOTE—TO ISSUE.—Application granted.

Theodore J. Savage, for Applicant.

BY THE COMMISSION.

ORDER.

North Fork Ditch Company having applied to the Railroad Commission for permission to execute a mortgage and to issue its promissory note in the principal amount of $150,000 payable on June 15, 1930, with interest at the rate of 6 per cent per annum for the purpose of refunding an outstanding note of like amount which was issued pursuant to authority granted by the Commission by Decision No. 6869, dated November 26, 1919, in Application No. 5099, a public hearing having been held before Examiner Fankhauser and the Railroad Commission having considered applicant's financial condition and its request, and being of the opinion that such request should be granted and that the money, property or labor to be procured or paid for through the issue of such note is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income; therefore,

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It is hereby ordered, that North Fork Ditch Company be and it is hereby authorized to execute a mortgage substantially in the same form as that filed with the petition herein and to issue its promissory note in the principal amount of $150,000 payable on June 15, 1930, with interest at the rate of 6 per cent per annum for the purpose of refunding the outstanding note of like amount to which reference is made herein.

The authority herein granted is subject to the following conditions:

1. The authority herein granted to execute a mortgage is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of such mortgage as to such other legal requirements to which said mortgage may be subject.

2. Applicant shall keep such record of the issue of the note herein authorized as to enable it to file within thirty days after such issue a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this sixteenth day of April, 1927.

DECISION No. 18249.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT CO., A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO (A) CONSOLIDATE ITS OPERATIVE RIGHTS AND ESTABLISH CERTAIN THROUGH SERVICE OVER SEPARATE OPERATIVE RIGHTS, (B) EXTEND ITS OPERATIVE RIGHTS FROM OAKLAND TO SAN FRANCISCO AND (C) TO CORRECT CERTAIN FARES AND ESTABLISH NEW RATES, RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF PERSONS, BAGGAGE AND EXPRESS.

Application No. 11005.

Decided April 16, 1927.

CERTIFICATE—AUTO STAGES—SERVICE—TO CONSOLIDATE.—Supplemental order to clear up any possible ambiguity in original order as to intermediate points served.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas, the order of the Railroad Commission in Decision No. 18107, issued in the matter of the above entitled application of California Transit Co., a corporation, is ambiguous in so far as it refers to the intermediate points to be served under said order and as to certain

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other matters involved in the description of the routes to be followed by said company in the territory involved in the above entitled proceedings. Now, therefore, good cause appearing;

It is hereby ordered, that the following order be substituted for the order originally issued in Decision No. 18107.

ORDER.

An application having been filed with the Railroad Commission, as indicated in the opinion which precedes this order, public hearings having been held, the matter having been duly submitted, and the Commission being now fully advised and basing its order on the findings of fact which appear in the opinion preceding this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by California Transit Co., a corporation, of an automobile stage service for the transportation of passengers and baggage, over the following routes:

(a) Between Rodeo and Vallejo, serving as intermediate points the communities of Oleum, Shortway, Morrow Cove and South Vallejo, and between Crockett and Vallejo, serving as intermediate points the communities of Tormey, Shortway, Morrow Cove and South Vallejo, both of said routes via Shortway and Morrow Cove and ferryboats operating between said points, in connection with its consolidated operations herein authorized.

(b) Between Oakland and Sacramento and intermediate points now served via Vallejo as hereinafter specified, authority being hereby expressly given to serve said termini and intermediate points by means of a direct through service without interchange or transfer of passengers or baggage at Vallejo, or at any other intermediate point.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the operation by California Transit Co., a corporation, of an automobile stage service for the transportation of passengers, baggage and express (subject to a weight limit of 100 pounds per package), over the following route:

Between San Francisco and Oakland, not as a separate operative right, but in connection with and as a part of applicant's unified and consolidated operations as herein authorized; and in this respect, between San Francisco and all points on applicant's system as consolidated herein, except over the following routes, to wit: between San Francisco and Oakland, on the one hand, and Napa, Martinez, Vallejo or Sacramento, via Vallejo, respectively, or intermediate points, on the other hand; provided that no passengers or baggage shall be trans-

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ported to or from San Francisco, originating at or destined to points west of Santa Rita;

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted said California Transit Co. for the establishment and operation of the services hereinabove described, subject to the conditions hereinafter set forth.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the consolidation and unification of the operative rights of said California Transit Co. as one unified system of through service for the transportation of passengers and baggage between all the termini and intermediate points served by and along its present several routes, except as herein expressly limited, which routes are as follows:

(1) Between Oakland and Sacramento, serving as intermediate points the communities of West Berkeley, Albany, El Cerrito, Richmond, San Pablo, Tank Farm, Pinole, Franklin Junction, Rodeo, Oleum, Shortway, Morrow Cove, South Vallejo, North Vallejo (Vallejo), Flosden, Napa Junction, Sacramento Junction, Creston, Cordelia, Suisun, Fairfield, Vacaville, Substation, Dixon and Davis;

(2) Between Oakland and Martinez, serving as intermediate points the communities of West Berkeley, Albany, El Cerrito, Richmond, San Pablo, Tank Farm, Pinole, Franklin Junction, Rodeo, Oleum, Shortway, Tormey, Crockett and Port Costa;

(3) Between Oakland and Napa, serving as intermediate points the communities of West Berkeley, Albany, El Cerrito, Richmond, San Pablo, Tank Farm, Pinole, Franklin Junction, Rodeo, Oleum, Shortway, Morrow Cove, South Vallejo, North Vallejo (Vallejo), Flosden, Napa Junction, Sacramento Junction, Soscol, and Napa Hospital, excepting service locally between North Vallejo and Napa and intermediate points (subject to reservations set forth in the foregoing opinion);

(4) Between Napa and Sacramento, serving as intermediate points the communities of Napa Hospital, Soscol, Sacamento Junction, Creston, Cordelia, Suisun, Fairfield, Vacaville, Substation, Dixon and Davis.

(5) Between Sacramento and Stockton via the following routes, to wit:

(a) Via Forest Lake, Cherokee lane, Lodi, and Henderson, serving as intermediate points the communities of Elk Grove, McConnell, Arno, Galt, Lodi and Henderson;

(b) Via Forest Lake, Woodbridge, Lodi and Henderson, serving as intermediate points the communities of Elk Grove, McConnell, Arno, Galt, Woodbridge, Lodi and Henderson;

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(c) Via Forest Lake and Cherokee lane direct to Stockton (flag Lodi on highway), serving as intermediate points the communities of Elk Grove, McConnell, Arno, Galt and Lodi (flag on highway);

(6) Between Stockton and San Jose, serving as intermediate points the communities of French Camp, Lathrop Corner, San Joaquin Bridge, Banta, Tracy, Standard Oil, Mountain House, Altamont, Ulmar, Livermore, Pleasanton, Sunol, Mission San Jose, Warm Springs and Milpitas;

(7) Between Stockton and San Francisco, serving as intermediate points the communities of French Camp, Lathrop Corner, San Joaquin Bridge, Tracy, Standard Oil, Mountain House, Altamont, Ulmar, Livermore, Pleasanton, Santa Rita, Dublin, Hayward and Oakland; also between Stockton and San Francisco, serving the same intermediate points excepting Pleasanton and/or Hayward;

(8) Between Stockton and Manteca, serving as intermediate points the communities of French Camp, Hedgeside, Lathrop Corner and West Manteca; also between Stockton and Manteca, serving as intermediate points the communities of French Camp, Hedgeside and Turner Station.

(9) Between Stockton and Carl Inn, serving as intermediate points the communities of Collegeville, Escalon, Oakdale, Orange Blossom Ranch, Knights Ferry, Tuolumne Inn, Curtain Ranch, Keystone, Yosemite Junction, Chinese Camp, Shawmut, Jacksonville, Stevens Bar, National Mine, Moccasin Creek, Priest's Station, Big Oak Flat, Groveland, Second Grody, Big Creek, Smith Ranch, Ranger Station, Buck Meadows, Colfax Springs, South Fork, Berkeley Camp, Sunset Camp and Crockers, the service, however, between Groveland and Carl Inn and to intermediate points between said last two termini being seasonal and to be rendered during the open season of each year, approximately between June 1st and September 15th;

(10) Between Stockton and Tuolumne, serving as intermediate points the following communities: Collegeville, Valley Home, Oakdale, Orange Blossom Ranch, Knights Ferry, Tuolumne Inn, Curtain Ranch, Keystone, Yosemite Junction, Jamestown, Sonora, Standard Road and Ralph; also between Stockton and Tuolumne, serving the same last mentioned intermediate stations and in addition thereto the community of Standard;

(11) Between Stockton and Modesto, serving as intermediate points the communities of French Camp, Hedgeside, Lathrop Corner, Hunter Corner, (West Manteca), Manteca, Calla, Weston, Ripon, Salida; also between Stockton and Modesto, serving as an intermediate point the community of Turner Station, in addition to the intermediate points last above set forth, and excepting the communities of West Manteca and Lathrop Corner;

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(12) Between Tracy and Fresno, serving as intermediate points the communities of Vernalis, Westley, Patterson, Crows Landing, Newman, Gustine, Volta, Los Banos, Santa Rita Ranch Junction, Dos Palos, Oxalis, Firebaugh and Mendota; also between Tracy and Fresno, serving as intermediate points the same communities above described as lying between Tracy and Los Banos, and in addition thereto the following communities, Santa Rita Ranch Junction, Chowchilla Road Junction, Chowchilla, Califa, Berenda, Madera, Herndon;

(13) Between Los Banos and Merced, serving as intermediate points the communities of Santa Rita Ranch Junction and Chowchilla Road Junction;

(14) Between San Francisco and Bakersfield, serving as intermediate points the communities of Oakland, Canyon Inn, Dublin, Santa Rita, Livermore, Ulmar, Altamont, Mountain House, Standard Oil, Tracy, San Joaquin Bridge, West Manteca, Manteca, Calla, Weston, Ripon, Salida, Modesto, Ceres, Esmar, Keyes, Turlock, Delhi, Livingston, Arena, Atwater, Buhach, Merced, Athlone, Minturn, Chowchilla, Fairmead, Berenda, Madera, Borden, Irrigosa, Herndon, Biola Junction, Fresno, Malaga, Fowler, Star, Selma, Kingsburg, Traver, Goshen Junction, Plaza, Tulare, Tipton, Pixley, Earlimart, Delano, McFarland, Famosa, Kimberlena, Lerdo and Saco;

(15) Between Fresno and Bakersfield, serving as intermediate points the communities of Malaga, Fowler, Star, Selma, Kingsburg, Traver, Goshen Junction, Plaza, Visalia, Farmersville, Exeter, Lindsay, Strathmore, Porterville, Terra Bella, Ducor, Richgrove, Delano, McFarland, Famosa, Kimberlena, Lerdo and Saco;

(16) Between Visalia and Tulare, serving as an intermediate point the community of Mooney's Grove;

(17) Between Fresno and Dinuba, serving as intermediate points the communities of Malaga, Fowler, Parlier, Lacjac avenue and Reedley; also between Fresno and Dinuba, serving as intermediate points, the following communities: Malaga, Fowler, Star, Selma, Parlier, Lacjac avenue and Reedley;

(18) Between Dinuba and Visalia, serving as intermediate points the communities of Sultana, Orosi, Cutler and Yettem Junction.

Provided, however:

(1) That the consolidation of the route between Oakland and Napa shall be without prejudice to the determination of pending proceedings affecting said operative right;

(2) That the route between Pinole and Martinez, via Franklin Canyon, is excluded from this consolidation, this decision being made entirely without prejudice as to the determination of all questions affecting said routes;

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(3) That this decision excludes all matters affected by Applications Nos. 5928, 6114 and 10913, and the so-called Morse lines leased to applicant pursuant to Decision No. 14917, Application No. 11004, being rendered without prejudice to the future consolidation of any operative rights granted therein.

(4) That nothing herein is to be construed as affecting decisions of the Railroad Commission of the State of California rendered after the submission of this application and affecting the operative rights, routes, termini or intermediate points mentioned in this application.

The Railroad Commission of the State of California hereby futher declares that public convenience and necessity require the consolidation and unification of the operative rights of said California Transit Company as one unified system of through service for the transportation of express upon its passenger cars only (subject to a uniform maximum weight limit of 100 pounds per package applicable throughout the system except where express rights do not exist), between all the termini and intermediate points served by and along its present several routes, in this order last hereinabove described, except that no right to transport express is herein granted over or along the following routes, either as separate routes or as part of applicant's consolidated system, to wit:

(a) Between Oakland and Martinez and intermediate points.

(b) Between Oakland and Napa and intermediate points.

(c) Between Oakland and Vallejo and intermediate points.

(d) Between Vallejo and Sacramento and intermediate points.

It is hereby further ordered, that a certificate of public convenience and necessity be and the same is hereby granted to said California Transit Company consolidating and unifying the operative rights and routes herein described, permitting said California Transit Company to operate the same as one unified system and authorizing the operating of through service for the transportation of passengers and baggage between all termini and all intermediate points served by and along its present several routes or operative rights hereinabove described (except as hereinabove expressly limited); also authorizing the operation of through service for the transportation of express between all the termini and all intermediate points served by and along its present several routes or operative rights hereinabove described, except the following, to wit:

(a) Between Oakland and Martinez and intermediate points.

(b) Between Oakland and Napa and intermediate points.

(c) Between Oakland and Vallejo and intermediate points.

(d) Between Vallejo and Sacramento and intermediate points, subject to the conditions hereinafter set forth.

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It is hereby further ordered, that said California Transit Company be and it is hereby authorized to establish and put into effect immediately the rates, fares, rules and regulations applicable to and governing the transportation of passengers, baggage and express over and throughout its system as consolidated (being limited as to express as hereinabove set forth), which were proposed herein by said applicant, including a fare of 25 cents per passenger for the transportation of passengers between Oakland and San Francisco and the proposed zone basis for express rates as hereinabove referred to.

It is hereby further ordered, that in all other respects said application be and it is hereby dismissed without prejudice.

The authority herein granted is subject to the following conditions:

1. That the transportation of express matter within the limit of 100 pounds herein fixed shall be limited to transportation on passenger cars used in the operations of the California Transit Company over the unified system as herein authorized.

2. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from the date hereof.

3. Applicant shall file, in duplicate, within a period of not to exceed thirty (30) days from the date hereof tariff of rates, fares, and time schedules, such tariffs of rates, fares and time schedules to be similar to those submitted by applicant at the hearing of this application, or rates, fares and time schedules satisfactory to the Railroad Commission; and shall commence operation of said service within a period of not to exceed thirty (30) days from the date hereof.

4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

In all other respects Decision No. 18107 shall remain unchanged.

Dated at San Francisco, California, this sixteenth day of April, 1927.

DECISION NO. 18251.

IN THE MATTER OF THE APPLICATION OF C. C. STOCKTON FOR CERTIFICATE OF CONVENIENCE AND NECESSITY.

Application No. 13373.

Decided April 20, 1927.

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CERTIFICATE—WATER UTILITY—RATES.—Certificate granted C. C. Stockton to operate public utility water system in Stockton Additions Nos. 1 and 2, in the town of Arvin, Kern County. Rates established.

C. C. Stockton, for Applicant.

BY THE COMMISSION.

OPINION.

In this application C. C. Stockton asks this Commission for a certificate of public convenience and necessity for the operation of a water system for the distribution of water for domestic and other purposes to consumers living in Stockton additions No. 1 and No. 2 to the town of Arvin, Kern County.

A public hearing in this matter was held before Examiner Williams at Bakersfield after all interested parties had been notified and given an opportunity to appear and be heard.

From the evidence it appears that this water system was installed about the year 1920 for the purpose of selling water to consumers located in the two tracts mentioned above, which contain approximately twenty-five acres. Since 1920 no charge has been made for water service delivered to the consumers. The water supply is obtained by pumping from one 12-inch well 150 feet deep, from which it is elevated into two galvanized-iron storage tanks of a total capacity of 400 barrels, or 16,800 gallons. Distribution is made by gravity from the tanks through approximately 4600 feet of 3 and 4-inch standard screw pipe mains. There are now 52 active service connections, all of which are unmetered.

D. H. Harroun, one of the Commission's assistant hydraulic engineers, presented a report in which the physical properties of this system were appraised at $5,905, and the depreciation annuity was estimated to be $164, computed by the sinking fund method at 5 per cent. The reasonable annual operating and maintenance expenses were estimated by the Commission's engineer to be $750 for the immediate future.

There were no protests against the request of applicant, and as C. C. Stockton was granted on November 29, 1926, by the board of supervisors of Kern County the necessary authority and permission to install water mains in the streets and alleys in additions Nos. 1 and 2, it appears that this request should be approved.

ORDER.

Application having been made to this Commission as entitled above, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed in the matter:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that C. C. Stockton operate a water system supplying water for domestic

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and other purposes to consumers residing in Stockton additions Nos. 1 and 2 to the town of Arvin, in Kern County; and

It is hereby ordered, that C. C. Stockton be and he is hereby authorized to file with this Commission within thirty days from the date of this order the following schedule of rates to be charged for all water delivered on and after the first day of May, 1927:

RATE SCHEDULE.

Flat Rates.

For each dwelling house	$1 75 per month
Stores, theatres, libraries and telephone exchanges	1 75 per month
Cotton gins, garages, service stations, bakeries, barber shops, pool halls, drug stores with soda fountain, butcher shops and hotels	3 50 per month
Restaurants with less than 15 units seating capacity	2 25 per month
Restaurants with over 15 units seating capacity	3 50 per month
Other classes of service to be charged in accordance with the use of water.	

Meter Rates.

Minimum Monthly Charges—

¾ by ¾-inch meter	$1 75
¾-inch meter	2 25
1 -inch meter	3 25
1½-inch meter	4 50
2 -inch meter	6 00

Each of the foregoing "minimum monthly charges" will entitle the consumer to the quantity of water which that minimum monthly charge will purchase at the following monthly meter rates:

Monthly Meter Rates—

0 to 500 cubic feet, per 100 cubic feet	$0 35
500 to 2000 cubic feet, per 100 cubic feet	25
2000 to 5000 cubic feet, per 100 cubic feet	20
Over 5000 cubic feet, per 100 cubic feet	15

It is hereby further ordered, that C. C. Stockton be and he is hereby directed to file with the Railroad Commission within thirty days from the date of this order, rules and regulations governing service to his consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twentieth day of April, 1927.

DECISION No. 18252.

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN HOME TELEPHONE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF $58,500 PAR VALUE OF ITS FIRST AND UNIFIED MORTGAGE GOLD BONDS.

Application No. 12550.

Decided April 20, 1927.

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SECURITIES—BONDS—TO ISSUE AND SELL.—Authority granted applicant to issue and sell $43,500 of Series "A" first and unified mortgage 6 per cent bonds. Application dismissed as to $15,000 of such bonds.

Ernest Irwin, for Applicant.

BY THE COMMISSION.

OPINION.

Southwestern Home Telephone Company asks permission to issue and sell $58,500 of its first and unified mortgage 6 per cent gold bonds.

Applicant is engaged in the business of furnishing telephone service in and about the cities or towns of Redlands, Banning, Beaumont, Elsinore, Hemet, Murrietta, Perris, San Jacinto and Temecula, in the counties of San Bernardino and Riverside. By Decision No. 13866, dated August 4, 1924, as amended, in Application No. 10260, it was authorized to execute a mortgage or deed of trust on its properties and to issue $340,000 of bonds to retire outstanding indebtedness.

The initial series of bonds to be issued under the mortgage or deed of trust is limited to $1,000,000. These bonds are known as Series "A," are dated October 1, 1924, bear interest at the rate of 6 per cent per annum and mature October 1, 1954. The $340,000 of bonds heretofore authorized by Decision No. 13866, and those now proposed to be issued, are Series "A" bonds.

Applicant proposes to sell the additional $58,500 of bonds at not less than 95 per cent of face value plus accrued interest and it asks permission to use the proceeds from the sale of $34,500 thereof to reimburse its treasury on account of expenditures for extensions and additions made prior to December 31, 1926, and to use the proceeds from the sale of the remaining $24,000 to finance the estimated cost of additional construction work to be made in the future.

The expenditures made prior to December 31, 1926, for which applicant seeks to reimburse itself in part with proceeds from the sale of its bonds, are described in some detail in Exhibit "B," attached to the petition. This exhibit shows that during the period from October 1, 1924, to December 31, 1926, applicant expended for construction the sum of $64,630.59 and that it retired property amounting to $21,241.80, leaving net expenditures for the period of $43,388.79. Applicant asks permission to issue $34,500 of bonds against the expenditures of $43,388.79. At the hearing it developed that the expenditures were temporarily financed in part with moneys borrowed on a short term note and only in part with surplus earnings. We believe, then, that to the extent borrowed moneys were used to pay construction costs, bond proceeds should be used to pay indebtedness and the order herein, therefore, will direct the use of $10,000 of bond proceeds to pay indebtedness, that being the amount of the short term indebtedness said to have been incurred for construction purposes. The remainder

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of the proceeds from the sale of the $34,500 of bonds may be used to reimburse the treasury.

Coming to the request to use the proceeds from the sale of $24,000 of bonds to meet future construction work, applicant reports that due to the growth in business it proposes to purchase and install a four section eight position long distance switchboard in Redlands, an automatic exchange in Palm Springs and additional cable.

Subsequent to the hearing on this application, applicant submitted a detailed estimate of the cost of the new switchboard and of the cost of the Palm Springs exchange. The cost of the former is reported at $10,505 and the cost of the latter at $26,486.75. No detailed estimate of the cost of the cable was submitted, though the testimony shows the cost of the cable at $10,000. It does not show where such cable will be installed.

In reference to the exchange at Palm Springs applicant submitted no evidence showing the probable revenues and expenses of that exchange, nor has it submitted any proposed rates which it intends to charge at that exchange. We feel that the record both as to the Palm Springs exchange and the installation of the additional cable is incomplete, and that therefore no bonds should at this time be authorized against such estimated expenditures. The order herein will authorize the issue of $43,500 of bonds against the expenditures reported in applicant's Exhibit B and the estimated cost of the new toll switchboard.

ORDER.

Southwestern Home Telephone Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of $43,500 of bonds is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Southwestern Home Telephone Company be and it hereby is authorized to issue and sell, on or before August 31, 1927, at not less than 95 per cent of face value plus accrued interest $43,500 of its Series "A" first and unified mortgage 6 per cent bonds due October 1, 1954.

The authority herein granted is subject to the following conditions:

1. Applicant shall use the proceeds to be received from the sale of $34,500 of the bonds herein authorized to pay outstanding indebtedness in the amount of $10,000 and to reimburse its treasury in part on account of expenditures for extensions and additions to its plant made prior to December 31, 1926. The proceeds from the sale of the remain-

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ing $9,000 of bonds herein authorized shall be used to pay in part for the new toll switchboard referred to in the foregoing opinion.

2. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $44.

It is hereby further ordered, that this application in so far as it involves the issue of $15,000 of bonds be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this twentieth day of April, 1927.

DECISION No. 18254.

IN THE MATTER OF THE APPLICATION AND PETITION OF SIDNEY SMITH, DOING BUSINESS UNDER THE FICTITIOUS NAME OF HOME GARDENS WATER COMPANY, TO SELL, AND OF THE PICO COUNTY WATER DISTRICT, AN INCORPORATED WATER DISTRICT, TO PURCHASE.

Application No. 13531.

Decided April 20, 1927.

TRANSFER—WATER UTILITY—TO SELL.—Application granted.

L. E. Dadmun, for Sidney Smith.
M. I. Church, for Pico County Water District.

BRUNDIGE, COMMISSIONER.

OPINION.

Sidney Smith, applicant above, under the fictitious name and style of Home Gardens Water Company, is engaged in the public utility business of distributing water for domestic and irrigation purposes to consumers residing in and in the vicinity of the town of Pico, in Los Angeles County. In this application authority is requested to sell that portion of the water system serving the town of Pico to the Pico County Water District, a duly and regularly formed organization existing under and by virtue of the laws of the State of California, which district has joined in the application.

A public hearing was held in the above entitled proceeding at Los Angeles after all interested parties had been duly notified and given an opportunity to appear and be heard.

From the evidence it appears that the Home Gardens Water Company has agreed to sell to the above water district that part of its system

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serving the town of Pico and included within the boundaries of the district for a consideration of $3,073.43. The water company, however, will continue to operate the remainder of its system serving as heretofore consumers residing outside the boundaries of the district.

No objection was made to this proposed transfer, and it appearing that the consumers heretofore served by the Pico system will be adequately taken care of by the water district, and that the remaining consumers outside the boundaries of said district will have available a better service and a better water supply, it therefore follows that the request should be granted.

The following form of order is submitted:

ORDER.

Sidney Smith having made application to this Commission for authority to transfer to Pico County Water District, a public corporation, that portion of the Home Gardens Water Company's system supplying water to consumers within the boundaries of said district, a public hearing having been held, the matter having been submitted, and the Commission being now fully informed thereon;

It is hereby ordered, that Sidney Smith be and he is hereby authorized to transfer to Pico County Water District, a public corporation, for the sum of three thousand seventy-three dollars and forty-three cents ($3,073.43), that portion of the Home Gardens Water Company's system supplying consumers within the boundaries of said district as more particularly described in the application herein, subject to the following terms and conditions:

1. Within ten (10) days from the date on which Sidney Smith actually relinquishes control and possession of that portion of his water system herein authorized to be transferred, he shall file with the Commission a certified statement indicating the date on which such control and possession was relinquished.

2. The authority herein granted shall apply only to such transfer as shall have been made on or before July 31, 1927, and a certified copy of the final instrument of conveyance shall be filed with this Commission by said Sidney Smith within thirty days from the date on which it is executed.

The authority herein granted shall become effective on the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of April, 1927.

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DECISION No. 18255.

PAN AMERICAN PETROLEUM COMPANY

vs.

PACIFIC ELECTRIC RAILWAY COMPANY

Case No. 2337.

Decided April 20, 1927.

RATES—ELECTRIC RAILROAD—ASPHALT—REPARATION.—Defendant carrier directed to refund to complainant all charges collected in excess of 2½ cents per 100 pounds for the transportation of four carloads of asphalt from El Segundo to Watson, Los Angeles County, during the period November 6, 1924, to March 7, 1925, inclusive.

BY THE COMMISSION.

OPINION.

Complainant, a corporation, organized under the laws of the State of California, with its principal place of business at Los Angeles, is engaged in producing, refining and marketing petroleum oil and its products. By complaint filed March 26, 1927, it is alleged that the rate charged on four carloads of asphalt shipped during the period from November 6, 1924, to March 7, 1925, inclusive, from El Segundo to Watson was unreasonable to the extent it exceeded the subsequently established rate of 2½ cents per 100 pounds. The complaint was presented informally May 17, 1926, thereby tolling the statute of limitation.

An award of reparation is sought. Rates are stated in cents per 100 pounds.

The applicable charges were based on a combination rate of 7½ cents, made 2½ cents to Los Angeles and 5 cents beyond. The distance between the points involved in this proceeding is 21 miles. The distance between El Segundo and Los Angeles is 17 miles, therefore it was unreasonable to charge 7½ cents for the movement to Watson when the rate from El Segundo to Los Angeles for distance slightly less was 2½ cents, consequently defendant voluntarily established effective April 15, 1926, the Los Angeles rate at Watson.

Complainant bases its plea for reparation upon the lower rate subsequently established. Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assailed was unreasonable to the extent it exceeded the subsequently established rate of 2½ cents. We further find that complainant paid and bore the charges on the shipments involved in this proceeding and has been damaged to the extent of the

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difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Pacific Electric Railway Company, be and it is hereby authorized and directed to refund to complainant, Pan American Petroleum Company of Los Angeles, all charges it may have collected in excess of 2½ cents per 100 pounds on the shipments involved in this proceeding forwarded from El Segundo to Watson during the period from November 6, 1924, to March 7, 1925, inclusive.

Dated at San Francisco, California, this twentieth day of April, 1927.

DECISION No. 18262.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA HIGHWAY EXPRESS, INC., FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXTEND ITS PRESENT MOTOR FREIGHT OPERATIONS TO INCLUDE AN EXPRESS SERVICE BETWEEN SAN FRANCISCO AND LOS ANGLES.

Application No. 13105.
Decided April 20, 1927.

CERTIFICATE—AUTO TRUCKS—EXPRESS.—Finding that public convenience and necessity do not require the proposed service the Commission denies the application.

Warren E. Libby and *Harry N. Blair*, for *Applicant*.
Edward Stern, for American Railway Express Company, Protestant.
W. S. Johnson and *L. N. Bradshaw*, for Southern Pacific Company, Protestant.
F. M. Mott, for Pacific States Express Company, Protestant.

BY THE COMMISSION.

OPINION.

California Highway Express, Inc., a corporation, by its amended application, has petitioned the Railroad Commission for an order that public convenience and necessity require the establishment by it of an express service between San Francisco and Los Angeles, such serv-

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ice to be in addition to the present motor freight service now operated by applicant between such points, said freight service being limited to the carriage of certain specific commodities.

Public hearings on this application were conducted by Examiner Hanford at San Francisco and Los Angeles, the matter was duly submitted upon the filing of briefs, and is now ready for decision.

Applicant proposes a fast motor express service between San Francisco, Oakland and Los Angeles, via the San Joaquin Valley route, the service being a through service between the foregoing terminals. The schedule proposed is daily, except Sundays and holidays, the elapsed time between terminals being scheduled at twenty hours. Rates are proposed in accordance with a schedule marked "Exhibit A" as filed with and forming a part of the amended application. The equipment proposed to be used is to be pneumatic-tired trucks of a maximum capacity of not exceeding five tons.

Applicant relies as justification for the granting of the desired certificate on the following alleged facts: (1) that there are no motor carriers or any other carriers giving a service comparable to that proposed by applicant over the route herein sought, and that the only carriers now giving service between the terminals sought to be served are Southern Pacific Company and American Railway Express Company; (2) That frequent requests have been made of applicant for the establishment of a fast express service between the terminals proposed. (3) that there now exists a tonnage sufficient to justify the establishment of expeditious service by special equipment; (4) that there is no transportation service now available by which shipments may regularly be transported from point of origin and be delivered at destination on the following day; (5) and that a regular daily service of the character herein proposed is required by the public.

Chester A. Nelson, president and manager of applicant corporation, testified that it was the intention of his company to use a van type of equipment, fitted with pneumatic tires, in the proposed service, and that the proposed schedule of twenty hours between terminals could be easily accomplished. The witness estimated that from four to five tons of express daily would be immediately available, and that with active solicitation the volume could be increased to from seven to twelve tons daily. In support of the volume of tonnage moving between San Francisco and Oakland on the one hand and Los Angeles on the other hand exhibits were presented showing the number and weight of shipments handled by the Red Line Transfer Company, and an abstract of these exhibits is as follows:

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Month	Los Angeles to San Francisco		San Francisco to Los Angeles	
	Number of Shipments	Weight	Number of Shipments	Weight
May, 1926	56	17,942	33	7,899
June, 1926	63	25,699	50	12,095
July, 1926	66	23,686	29	4,742
August, 1926	76	29,057	40	8,961
September, 1926	59	28,665	55	12,540
October, 1926	67	48,815	41	9,852
November, 1926	58	58,785	46	14,465
Totals	445	232,649	294	70,554

The business of the Red Line Transfer Company has been under the control of the witness who has utilized truck service in Los Angeles and San Francisco for pick-up and delivery of shipments and steamer service for the transportation between Los Angeles harbor and San Francisco. This business has moved at a rate of $3 per hundredweight between San Francisco and Los Angeles and $3.25 per hundredweight between Oakland and Los Angeles, rates including pick-up and delivery, but being subject to a minimum charge of $4.50. Witness proposes the diversion of all business heretofore handled by steamer for the Red Line Transfer Company to the proposed express motor truck service.

John J. Davidson, manager of the San Francisco Branch of the United Parcel Service, Inc., operating a parcel delivery service in Los Angeles, San Francisco and Oakland, testified of frequent inquiry for deliveries in Los Angeles of merchandise originating in San Francisco; that heretofore such shipments have been consolidated by his company and forwarded by American Railway Express; that if the proposed service were to be authorized it would be used by his company, it being his estimate that approximately 300 parcels per day would be handled, each averaging 6 pounds in weight. Witness stated his company could accumulate shipments at terminals, use applicant's service for the consolidated tonnage and thereby secure a lesser rate per package than now available by parcel post, which are the cheapest package rates available, and that with active solicitation the volume of business now available could be tripled; and that the service if authorized to be established would be used by his company on account of the lower rate proposed.

Eli Schumacher, manager of the City Transfer Co., at San Francisco, testified that his company handled theatrical properties and paraphernalia originating in San Francisco and destined to Los Angeles, shipments now moving by American Railway Express Company or by steamer; that the proposed service would be from 12 to 24 hours faster

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than the steamer service; that approximately one ton of theatrical properties are so shipped each week from San Francisco to Los Angeles via American Railway Express, which service requires from 24 to 48 hours to accomplish delivery; and that his company would use the proposed service if established, forwarding about 2000 pounds per week.

Samuel Nichols, employed by H. Liebes & Co., dealers in furs and women's apparel at San Francisco, testified that the service proposed would be satisfactory to the Los Angeles customers of his firm; that frequently sales are made for Los Angeles delivery approximating five shipments per day, the packages weighing from one to ten pounds each. The parcel post and American Railway Express are now used in the forwarding of packages, each method of transportation being used to an equal extent, and some complaints having been received as to delayed deliveries by both methods.

W. C. Simpson, employed as ticket clerk with Pickwick Stages System at San Francisco, testified his company transported between 125 and 150 through passengers daily to and from Los Angeles; that six or seven of such passengers have heavy trunks which cannot be transported by the stage company; that five to six prospective passengers decline to make trips by stage to Los Angeles by reason of their having heavy trunks and their complaint as to the cost of express transportation for their trunks and baggage over 60 pounds weight per piece.

Harold Bradley, district manager of Chicago Pneumatic Tool Company's branch at San Francisco, testified his concern maintained a branch in Los Angeles and frequently the San Francisco and Los Angeles branches were required to fill orders from each source of supply, an average of five packages daily of a gross weight averaging 60 pounds, being shipped to the Los Angeles branch, the parcel post and American Railway Express Company now being used. Witness has not considered the parcel post as giving rapid delivery, although 60 per cent of the express packages receive delivery in Los Angeles on the day following their shipment from San Francisco. Witness would use the proposed service if its establishment were to be authorized.

Charles D. Hall, general passenger agent of Pickwick Stages System and located at Los Angeles, testified six or seven passengers daily would use stage service, Los Angeles to San Francisco, if opportunity was offered for the prompt transportation of heavy baggage, such prospective stage passengers now using train service where their baggage requirements are cared for. The witness also cited instances of theatrical performers desiring to use stages, but were not able to do so by reason of their baggage exceeding the weight authorized for stage transportation.

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Lee Belden, proprietor of Atlantic and S. P. Transfer at Los Angeles, testified that his transfer business served 75 per cent of the hotels and all the downtown theaters of Los Angeles; that he handles 30 to 40 trunks daily which are to be forwarded to Oakland or San Francisco, the average weight of the trunks being 150 pounds. The witness was of the opinion that the theatrical business to be offered the new service would be comparatively light, but that the service would appeal particularly to commercial travelers and be of advantage to shippers.

The witness would use the service to the extent of 10 to 12 trunks daily and later would more than double his use, although stating that the service should be daily to be of full value. This witness in his business operates in conjunction with the People's Express Company in Oakland and with the Union and Central Transfer Company in San Francisco.

H. W. Brockway, an automobile tire dealer of Los Angeles, testified he frequently secured tires from San Francisco to fill orders for sizes which might temporarily be out of his Los Angeles stock; that the rate of the American Railway Company on tires was too high to permit the use of their service, although he would use the proposed "terminal to terminal" rate of the applicant. Witness now uses steamer shipments to care for his emergency orders from San Francisco, such shipments averaging two each week, and averaging a weight of 400 pounds per shipment.

Everett McCabe, vice president of United Parcel Service, Inc., and its manager at Los Angeles, testified his company operated about 100 units of equipment in the Los Angeles territory, serving over 400 patrons.

Service is also operated in Oakland and San Francisco. Witness has had numerous requests from his patrons for service between Los Angeles and San Francisco, and estimates a thousand packages per day could be handled if applicant's proposed service were to be authorized, as the rates and schedules were satisfactory, there being now no comparable service available. Witness anticipates being able to use applicant's facilities and by so doing to offer his patrons an improved service at rates equivalent to those of the parcel post. The weight of the packages would range from 10 to 20 pounds, shipments would be consolidated at San Francisco or Los Angeles, be forwarded in bulk under the "terminal to terminal" rate and distributed at terminals by United Parcel facilities. The service of the steamer lines is not sufficiently regular to meet the needs of witness.

Rodney S. Sprigg, manager of Premier Fireproof Warehouse at Hollywood, and interested in the local transfer business in Hollywood, knew of the proposals of applicant and that business could be secured

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from Hollywood theaters if the application were to be granted. Witness was of the opinion that he could offer 300 to 500 pounds daily for transportation to San Francisco or Oakland, the present rates being considered too high and the steamer service being other than daily. Witness had discussed the scope of the application with the Merchants' Bureau of the Hollywood Chamber of Commerce and with other transfer and warehouse men, all of whom believe the proposed service desirable. Witness stated 48 hours were required to exchange shipments between Hollywood and Oakland or San Francisco by American Railway Express, due to express being handled by Pacific Electric Railway Company on the portion of the trip between Hollywood and Los Angeles.

B. H. Nuenberg, employed with Ionica Company at Los Angeles, testified his company forwarded 1000 units of its product each week to Oakland and San Francisco, and had been using the service of the Red Line Transfer Company for regular shipments and that of American Railway Express Company for rush or emergency shipment. Witness company would use the proposed service if it were authorized.

The granting of the application is protested by American Railway Express Company, Southern Pacific Company and Pacific States Express.

F. M. Mott, general agent of Pacific States Express and located at Los Angeles, testified his company performed a general express service between Los Angeles and Oakland-San Francisco, the California Truck Company performing the pick-up and delivery service in Los Angeles and the transportation between Los Angeles and Wilmington, the steamers of the Los Angeles Steamship Company being used between Wilmington and San Francisco. Shipments picked up in San Francisco at 3 p.m. are delivered to consignee in Los Angeles before 5 p.m. on the following day. In the opposite direction shipments leave Los Angeles at 1 p.m. and are delivered in San Francisco the following day.

W. S. Johnson, employed in the freight traffic department of Southern Pacific Company, testified regarding the free baggage allowance of 150 pounds available for patrons of his company, the special baggage car privilege accorded theatrical or other party movement in parties of 25 to 49.

Witness for protestant American Railway Express Company testified as to the service and facilities available in Los Angeles, Oakland and San Francisco. In Los Angeles 139 automobile trucks and horse-drawn vehicles are employed, seven depots are maintained for the receipt and delivery of express, three of which are open for a 24-hour period each day; free pick-up and delivery is given over a territory over 49 square miles in area in the Los Angeles district, with frequency commensurate with the volume of business in the different sections of

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the free delivery territory. At San Francisco four stations are maintained, two of which are open daily for a 24-hour period; a free pick-up and delivery service is available in a territory approximately 23 square miles in extent.

F. W. Ashton, traffic manager for Bullock's, a department store in Los Angeles, testified that his establishment used all existing service, that the collective service so used was ample and satisfactory for all existing needs. Similar testimony was given by W. J. Fitzpatrick, traffic manager for the May Company, a department store.

Wm. J. Lansing, employed by Bullock & Jones, gents furnishings at Los Angeles, testified his concern used American Railway Express Company's service practically daily, receiving overnight service from San Francisco, deliveries being made about 10 a.m. of shipments forwarded from San Francisco the previous day, and that in extreme emergencies a messenger was sent to the train to receive the express immediately upon arrival.

A. N. Moline, proprietor, Moline Millinery of 640 South Broadway, Los Angeles, testified he used American Railway Express service from San Francisco to Los Angeles receiving delivery on the day following their shipment, shipments being daily and varying from a few pounds to several hundred pounds in weight. By stipulation the testimony of this witness was supported by that of Ed Whitney of Butler-Schultz, wholesale milliners; E. C. Griswold of Dettmer, Bruener & Macy, wholesale woolens; and W. A. Hatch of A. G. Spalding & Bros., sporting goods.

Applicant has proposed a service daily except Sunday, leaving the terminals of San Francisco and Los Angeles at 3 p.m. The service of the protesting carriers, American Railway Express Company and Pacific States Express is as follows:

American Railway Express Company—

Daily Service leaving Los Angeles: 8.00 a.m., 12.30, 6.05, 6.15, 7.45, 8.30 and 11.15 p.m.

Daily Servivce leaving San Francisco: 8.00, 11.40 a. m., 3.40, 6.15, 8.20, 9.00 and 11.40 p.m.

Pacific States Express—

Leave San Francisco on Tuesdays, Wednesdays, Fridays and Saturdays at 4.00 p.m.

Leave Los Angeles on Tuesdays, Wednesdays, Fridays and Saturdays at 1.00 p.m.

The rates proposed by applicant are on the basis of $2 per hundredweight for terminal to terminal delivery with additional charges for pick-up and delivery in Los Angeles, San Francisco and Oakland of from 25 to 50 cents per hundred pounds, according to the tonnage picked up or delivered. A minimum charge of $2 per hundredweight is to be assessed.

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The rates of the American Railway Express Company are graduated according to the weight of the shipment and range from 50 cents as a minimum for a five pound package to $3.30 per hundred pounds on first class express, and on commodities from a minimum of 52 cents for a twenty-five pound package to $2.07 per hundred pounds. All rates are on a basis which includes pick-up and delivery within the established free limits in the cities of San Francisco, Oakland and Los Angeles.

The rates of the Pacific States Express are on a graduated scale from a minimum of 50 cents for a ten pound package to rates of $1.85, $2.25 and $2.95 per hundredweight, depending on the class or commodity rate applicable to the particular shipment.

We have given careful consideration to the evidence, exhibits and briefs filed in this proceeding.

In our opinion applicant has herein proposed a service advantageous to a very limited portion of the shipping public and the rate structure proposed is of a nature that the ordinary merchant or shipper would be compelled to patronize present existing carriers, who now offer lower rates and more expeditious delivery for the same character of service. The proposed operation is useful for, and would appeal to, shippers who by the nature of their business had many small consignments which when consolidated at point of shipment would move to the point of destination by applicant's facilities, there to be delivered and distributed by local facilities. The record shows no need of a service such as is proposed with the exception of the use that might be made of such service by United Parcels Service, Inc., and from whom applicant would secure its greatest volume of business. The record shows that by the use of the proposed service it is anticipated by United Parcels Service, Inc., that a rate could be made on parcels which would approximate the rates of the parcel post, against which rates no complaint is voiced but the service as regards time required to accomplish deliveries is criticized. There is no assurance that the general public would receive the advantage of such reduced rate, which is of service only to certain shippers whose business requires the transportation of a large volume of small consignments, and the high minimum rate proposed would render the service unattractive to the small shipper unless extreme emergency required expeditious handling between terminals, and even in such instances the available rail express service is superior both as to rate and elapsed time. We see no reason justifying the granting of the application herein in view of the reasonable rates and adequate service for all classes of shippers available by the service of existing facilities.

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ORDER.

Public hearings having been held on the above entitled application, the matter having been duly submitted upon the filing of briefs and the Commission being now fully advised;

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the operation by California Highway Express, Inc., a corporation, of a through motor express service between San Francisco, Oakland and Los Angeles, via the San Joaquin Valley route; and

It is hereby ordered, that this application be and the same hereby is denied.

The effective date of this order is hereby fixed as twenty days from the date hereof.

Dated at San Francisco, California, this twentieth day of April, 1927.

DECISION No. 18271.

IN THE MATTER OF THE APPLICATION OF SAN JOSE RAILROADS, A CORPORATION, FOR AUTHORITY TO ABANDON ITS FRANCHISE AND TRACKS ON AND OVER MARTEN AND TILLMAN AVENUES IN HANCHETT RESIDENCE TRACT IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.

Application No. 10530.

Decided April 21, 1927.

ABANDONMENT—STREET RAILWAY—SERVICE.—Application granted.

Lich and Lich, by *W. F. James*, for Applicant.
Archer Bowden, City Attorney, for City of San Jose.

BY THE COMMISSION.

OPINION.

San Jose Railroads, a corporation, by its amended application, has petitioned the Railroad Commission for an order authorizing the abandonment of street car service, and for the removal of its tracks and equipment, from the intersection of Park and Tillman avenues, thence on and along Tillman avenue to its intersection with Marten avenue, thence on and along Marten avenue to its intersection with The Alameda, said line being known as the "Hanchett Park Line," and to substitute for the street car service heretofore rendered an automobile bus service over the same route and to be operated at the same rates of fare and on approximately the same schedule as the street car service heretofore given.

A public hearing on this application was conducted by Examiner Handford at San Jose, the matter was duly submitted and is now ready for decision.

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Applicant alleges that the Hanchett Park line, herein sought to be abandoned, was constructed in the years 1906 and 1907, by San Jose and Santa Clara County Railroad Company, predecessor in interest to applicant herein, under a private agreement with Peninsula Land and Investment Company, the owner of Hanchett Park; that no franchise was obtained for the operation of the line from the county of Santa Clara; that the line has been operated as a feeder to applicant's street car line running between San Jose and Santa Clara, by the operation of a single car between The Alameda and Park avenue; that the improvement of Marten avenue by the lowering of grade and paving has been undertaken by private contract between property owners and a paving contractor; that applicant is informed that similar improvement is to be made on Tillman avenue; and that applicant is under no obligation to improve the portion of the streets now occupied by its tracks, but such part if not improved, and if reconstruction of the tracks and roadbed be not made, will leave said roadbed and tracks higher than the adjoining portions of the streets making vehicular traffic from one side of the street to the other difficult, if not impossible.

Applicant further alleges that neither the Hanchett Park line, nor its railway system as a whole, is operated at a profit but that the operation results in an annual deficit; that applicant is financially unable to meet the cost of reconstruction and paving which are estimated to cost approximately $23,482; that the establishment of the proposed bus service in lieu of the street car service heretofore operated would not only accommodate the patrons of the present Hanchett Park street car line but would also permit of an extension of service to accommodate the residents of Race street, between Park avenue and Stevens creek road, the occupants of and visitors to O'Connor's Sanitarium and the residents in that vicinity whenever traffic demand would justify such extension of service; that the substitution of motor bus service would permit the removal of trolley poles now located on the center lines of Tillman and Marten avenues, thereby rendering such streets safer and improving their appearance; and that the establishment of the proposed motor bus service in lieu of the street railway service would avoid the necessity for the expensive reconstruction of applicant's Hanchett Park line and furnish an equivalent service to applicant's present and future patrons.

Fred Griffin, assistant to the vice president and general manager of applicant corporation, testified as to his having knowledge of the Hanchett Park line since 1911 and as to the history of its construction. He stated that the track was constructed before the streets upon which it was laid had been accepted and that the tracks were operative at the time the plat of Hanchett Park was offered to the board of supervisors of Santa Clara County for acceptance and recording; that the Han-

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chett Park line was operated as a railroad until 1924 at which time the residents on Marten avenue let a private contract for the paving of such street. The tracks were removed at such time and a bus service was substituted. Witness had heard no objection to the substitution of bus service for the rail service and the line, now served by motor bus service, was returning its operating cost and the patrons were satisfied with the present service.

The city of San Jose, represented at the hearing by Archer Bowden, Esq., city attorney, stated that no objection was offered to the granting of the application. Although full notice was given of the hearing of this application by advice to interested parties, posting of notices and two publications in a newspaper of general circulation in the city of San Jose, there was no appearance or protest against the granting of the application.

After full consideration of the record in this proceeding we are of the opinion that the application should be granted in accordance with the following order.

ORDER.

San Jose Railroads, a corporation, having made application for the abandonment of service, removal of tracks and equipment on its Hanchett Park line, and for the substitution of a motor bus service in lieu of the street car service as formerly given on such line, a public hearing having been held, the matter having been duly submitted and the Commission being now fully advised;

It is hereby ordered, that applicant San Jose Railroads, a corporation, be and the same hereby is authorized to suspend street car service, abandon and remove its tracks and equipment on its Hanchett Park line, over and along the following route:

From the intersection of Park avenue and Tillman avenue, thence northwesterly on and along Tillman avenue to its intersection with Marten avenue, thence northeasterly on and along Marten avenue to its intersection with The Alameda, provided, however, that there shall be established and operated at the same rates of fare and on the same approximate schedule, a motor bus service in lieu of the street car service, the abandonment of which is hereby authorized, said motor bus service to be hereafter regularly operated until the further order of this Commission.

Dated at San Francisco, California, this twenty-first day of April, 1927.

DECISION NO. 18272.

IN THE MATTER OF THE APPLICATION OF PENINSULAR RAILWAY COMPANY, A CORPORATION, FOR AUTHORITY TO ABANDON ITS FRANCHISE OVER AND TO REMOVE ITS TRACKS AND RAILS FROM PORTIONS OF SARATOGA AVENUE, BELLOMY STREET

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AND FRANKLIN STREET IN THE TOWN OF SANTA CLARA, CALIFORNIA.

Application No. 10895.
Decided April 21, 1927.

ABANDONMENT—STREET RAILWAY—SERVICE.—Application granted.

Leib and Leib, by *W. F. James*, for Applicant.

BY THE COMMISSION.

OPINION.

Peninsular Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing the abandonment of its franchise and the removal of its tracks and equipment on its line on Franklin street from the Southern Pacific station to Grant street; and from Saratoga avenue, Bellomy street and Lincoln street, between the southerly town limits of the town of Santa Clara and the southerly line of Lexington street; all in the town of Santa Clara.

A public hearing on this application was conducted by Examiner Handford at San Jose, the matter was duly submitted and it is now ready for decision.

Applicant alleges that the suspension of service over the portion of the line herein sought to be abandoned between the Southern Pacific depot in the town of Santa Clara at the end of Franklin street, thence over and along Franklin street to its intersection with Lincoln street, thence over and along Lincoln street to its intersection with Bellomy street, thence over and along Bellomy street to its intersection with Saratoga avenue, and thence over and along Saratoga avenue to the southerly limits of the town of Santa Clara was the subject of Application No. 7361 made to this Commission by applicant; that authority was granted for the suspension of service by this Commission's Decision No. 10302 on said Application No. 7361, as decided April 12, 1922, the authority being conditioned by requiring the filing of ordinance or resolution granting relief from franchise obligations prior to exercising the authority granted; and that no formal action was taken by the authorities of the town of Santa Clara relative to the suspension of service as authorized by this Commission's Decision No. 10302, although with the informal consent of the town authorities the service was discontinued on January 27, 1923, and has not since been resumed.

Applicant further alleges that it is informed proceedings are pending for the improvement of Franklin street from the Southern Pacific depot to Grant street, and for the improvement of Lincoln street, Bellomy street and Saratoga avenue from Lexington street to the southerly limits of the town of Santa Clara, and that if applicant, as a result of such street improvement, is required to reconstruct and pave its portion of such streets the expense would approximate the

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sum of $31,508.29; that applicant is unable to meet the estimated cost of track reconstruction and paving; that the tracks which are proposed to be abandoned are those over which no service is now being given and over which no future service is anticipated for the reason that traffic conditions in the town of Santa Clara have not changed since the former decision of this Commission on Application No. 7361; and that the removal of the tracks, as herein sought, would be beneficial to the town of Santa Clara and its citizens, applicant by reason of its financial condition being unable to rehabilitate its tracks and pave the streets in accordance with franchise requirements, resulting in its unused tracks and roadbed being located above the newly established grade for the paved streets and constituting obstruction to vehicular traffic.

Fred Griffin, assistant to the vice president and general manager of applicant, testified that his company, following the issuance of this Commission's Decision No. 10302 on Application No. 7361, petitioned the board of trustees of the town of Santa Clara for relief of the service requirements imposed by franchise conditions but that no action was taken thereon; that the service was continued until January 27, 1923, and was then suspended on account of the mechanical condition of the single car operated on the line; and that no complaint had ever been received regarding the discontinuance of service.

E. G. Shoup, an official of applicant corporation, testified as to his investigation of the traffic conditions on the lines herein sought to be abandoned. A check made on December 20, 1926, of Santa Clara passengers using cars of the San Jose Railroads, and operating over the tracks of applicant in the town of Santa Clara, showed a daily loss of approximately $27. This witness was of the opinion, based on his observation and study, that the present traffic offering shows no improvement over that present in 1921 when the former application to suspend service was being considered.

Although notice of hearing on this application was sent to all interested parties and was twice published in a newspaper of general circulation in the town of Santa Clara prior to the date of hearing, there was no appearance or protest against the granting of the application.

After full consideration of the record herein we are of the opinion that the application should be granted.

ORDER.

A public hearing having been held on the above entitled application, the matter having been duly submitted and the Commission being now fully advised;

It is hereby ordered, that applicant Peninsular Railway Company, a corporation, be and the same hereby is authorized to discontinue service and to abandon and remove its tracks and equipment now located in

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the town of Santa Clara over and upon the following described streets:

From Franklin street between the Southern Pacific depot and Grant street; and from the intersection of the southerly limits of the town of Santa Clara with Saratoga avenue, thence northeasterly along said Saratoga avenue to its intersection with Bellomy street, thence northeasterly along said Bellomy street, to its intersection with Lincoln street, thence northwesterly along said Lincoln street to its intersection with Franklin street, all within the town limits of the town of Santa Clara, and as shown in red color on a blue-print map marked "Exhibit A," attached to and forming a portion of the application herein.

Dated at San Francisco, California, this twenty-first day of April, 1927.

DECISION No. 18278.

IN THE MATTER OF THE APPLICATION OF EEL RIVER AND SOUTHERN TELEPHONE COMPANY, A CORPORATION, FOR AUTHORITY TO FILE AND MAKE EFFECTIVE CERTAIN RATES AND CHARGES FOR TELEPHONE SERVICE.

Application No. 13651.

Decided April 26, 1927.

RATES—TELEPHONE—RULES AND REGULATIONS.—Application granted.

BY THE COMMISSION.

ORDER.

Whereas, Eel River and Southern Telephone Company has made application to the Commission for authority to file and make effective certain rates and charges in connection with its telephone utility business, described as rates for six-party line service, additional listings in directory, public telephone service, vacation rate service, and rule providing for charges for effecting moves and changes of telephone equipment, and

Whereas, it appears that the rendering of the service contemplated in the above rate schedules will meet telephone service requirements of the subscribers of Eel River and Southern Telephone Company and of the public, and it appearing that this is not a matter in which a public hearing is necessary;

It is hereby ordered, that Eel River and Southern Telephone Company be and it is hereby authorized to charge and collect the rates and charges set forth in Exhibit "A," attached hereto, on and after May 1, 1927, providing such rates and charges be submitted for filing with this Commission on or before April 30, 1927.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-sixth day of April, 1927.

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EXHIBIT "A."

EXCHANGE SERVICE SCHEDULE No. A-1.

Six-party Line Service. Ferndale.

Service.

Applicable to business and residence six-party line flat rate service within the primary rate area of the Ferndale exchange.

Rate.

(1) Business flat rate service—

	Rate per month	
	Wall set	Desk set
Each six-party line station	$1 50	$1 75
(2) Residence flat rate service—		
Each six-party line station	1 25	1 50

Conditions.

(1) Extension stations will not be provided in connection with six-party line service.

(2) Six-party line service is furnished within the primary rate area only.

EXCHANGE SERVICE SCHEDULE No. A-3.

Listing in Directory. Ferndale.

Service.

Applicable to listing in directory throughout the territory served.

Rate.

Listings in the alphabetical section of the telephone directory are intended solely for the purpose of identifying subscribers as an aid to the use of telephone service. Telephone directories are furnished subscribers to facilitate the use of the service, and remain the property of the telephone company and may be collected upon issuance of new directories. Subscribers are entitled, without charge, to listings in the alphabetical section of the directory as follows:

Individual line service	1 listing
In case of a firm, one additional listing will be given one member of that firm.	
Party line service, each primary station	1 listing
Private branch exchange service, each trunk line	1 listing

Additional listings in telephone directory	Rate per month
Member of same firm or business, each listing	$0 25
Any individual residing at a residence listed at the residence, each listing	0 25

Conditions.

(1) Business listings consist of a name, the address of the premises in which the primary station, switchboard or receiving station is located and the telephone number. A designation descriptive of the business will be included if the name does not indicate the nature of the business.

(2) Business listings may be those of individuals engaged in business, names of firms or members thereof, the names of corporations or the officers thereof, and the names of the employees. A trade name made up by adding a term, such as company, agency, shop, works, etc., to the name of a commodity will not be accepted as a listing unless the subscriber is authorized to do business under that name. Listings are not accepted which appear to be designed primarily to give publicity to a commodity or service.

(3) All additional listings in connection with a subscriber's service, except night service, must bear the same address and telephone number as the primary listing, except that additional listings in connection with private branch exchange stations and extension stations not located on the same premises as the primary station may show the address at which the station is located but will be accepted only in the name of the subscriber.

(4) Residence listings consist of a name, an abbreviation indicating "residence," the address of the premises to which service is furnished and the telephone number.

(5) Residence listings may be those of the subscriber or members of the subscriber's domestic establishment residing on the premises in which the subscriber's service is provided.

(6) The charge for additional listings begins with the day they are included in the information records, and when printed in the directory may not be discontinued until the end of the directory period, unless the subscriber's service is discontinued.

EXCHANGE SERVICE SCHEDULE No. A-5.

Public Telephone Service. Ferndale.

Service.

Applicable to nonsubscribers for public telephone service throughout the territory served by the company.

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Rate.

Each exchange message $0.05

Conditions.

(1) Public telephones will be installed by the company, at its discretion, in public locations, to meet the general and transient telephone requirements within the exchange area.

EXCHANGE SERVICE SCHEDULE No. A-8.

Vacation Rate Service. Ferndale.

Service.

Applicable to vacation rate service throughout the territory served.

Rate.

Subscribers to residence service, while temporarily absent from their residences, may be granted a vacation discount on regular rate (including mileage) for their primary and extension stations as follows:

Flat rate service	Fifty per cent (50%) discount
Extension stations	Fifty per cent (50%) discount

Conditions.

The conditions under which a discount is allowed are:

(1) That at the time the discount is applied for, the subscriber shall be receiving residence service at the regular rate.

(2) That the subscriber shall have had residence service continuously for a period of not less than one year, and that his account is paid in full to date of application for discount.

(3) That the exchange service charge, at the vacation rate, for the entire period of suspension be paid at the time the application for the vacation rate service is accepted by the company.

(4) Service at the vacation rate may begin on any day of the month, providing notice is given sufficiently in advance for arrangements to be made, and may be granted for any period of not less than two months and not more than four months.

(5) Subscribers shall be allowed but one suspension of service at the vacation rate in each calendar year.

(6) When the subscriber's regular rate is subject to a discount for prompt payment, the vacation rate shall be computed on his net rate.

(7) The service furnished during the period of suspension will consist of outgoing service only. Persons calling for the telephone number in question will be advised by the operator that the telephone has been "temporarily disconnected."

(8) Complete service will be restored without notice from the subscriber not later than 5 p.m. on the last day of the period of suspension. Should the subscriber desire incoming service restored in advance of that date, notification to that effect should be given to the company sufficiently in advance of the desired date to permit of the necessary arrangements.

(9) In the event of advance restoration of service, the subscriber will be billed at the regular rate from and including the date following that on which service was restored, and the payment previously made for such period at the vacation rate will be credited to the subscriber as a payment on account.

RULE AND REGULATION No. 29—MOVES AND CHANGES.

Moves and changes of telephone apparatus and wiring on the subscribers' premises, at the request of the subscriber will be made by the company, and the charges for such work will be as follows:

A. Telephone sets.

1. Moving from one location to another	$3 00
2. Change in type or style	3 00

B. Private branch exchange systems.

1. Moving from one location to another:

	Same room	One room to another
(b) P. B. X. systems, cord per station	$3 00	$3 00
(c) P. B. X. switchboards, per position		
30-line	5 00	10 00
80-line	7 50	15 00
160-line	10 00	25 00
320-line	17 50	40 00
Over 320-line	Actual cost	

C. Other equipment and wiring.

Charges for moving or changing of equipment or wiring, other than that included under A and B above, will be an amount equal to the actual cost of labor and material involved.

D. Maintenance.

The charges specified above do not apply if the changes or moves are initiated by the telephone company and required for the proper maintenance of the equipment or service.

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E. Change in class of service.

The charges specified above do not apply if the changes are required because of a change in type, class or grade of service.

DECISION NO. 18279.

IN THE MATTER OF THE APPLICATION OF N. P. JENSEN FOR AUTHORITY TO TRANSFER THE ELECTRIC SYSTEM AND PROPERTIES OWNED BY HIM TO CHARLES B. JACKSON, AND OF CHARLES B. JACKSON FOR AUTHORITY TO ACQUIRE SAID ELECTRIC SYSTEM AND PROPERTIES.

Application No. 13712.

Decided April 26, 1927.

TRANSFER—ELECTRIC UTILITY—TO SELL.—Application granted.

Goodfellow, Eells and Orrick, for Applicant.

BY THE COMMISSION.

OPINION.

In this application N. P. Jensen, who is engaged in the business of generating electricity in Modoc County, California, and transmitting the same to Lake County, Oregon, where he has been furnishing and selling electricity for light, heat and power, asks permission to sell his electric system and properties to Charles B. Jackson.

It is of record that substantially all of the consumers of N. P. Jensen reside in Lake County, Oregon. A few of his consumers reside in Modoc County, California. N. P. Jensen has agreed to sell his electric business and properties in the State of California and in the state of Oregon to W. B. Foshay Company, which in turn have agreed to assign their contract to purchase said business and properties to Peoples California Hydro-Electric Corporation, a California corporation. In order to facilitate and expedite the transaction it is proposed to have N. P. Jensen transfer the title to the properties both within the State of California and within the state of Oregon to Charles B. Jackson, who, in turn, will subsequently transfer said properties to the Peoples California Hydro-Electric Corporation for whatever amount of bonds and stock said corporation may be authorized to issue in payment for the properties by the Railroad Commission. Charles B. Jackson agrees to assume all public utility obligations of the property and to continue to serve all consumers of N. P. Jensen. The purchaser does not at this time propose to increase or change the rates for service that the consumers are now paying.

There is filed with the petition an appraisal of the properties made by James R. Thompson, consulting engineer. In his report, which is as of November 1, 1925, he estimates the reproduction cost new of the physical property at $108,472 and the reproduction cost new less depreciation at $84,382. To these amounts he adds allowances for materials

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and supplies for cost of financing and for going value with the result that his estimated cost of reproduction is increased to $124,598 and his estimated cost of reproduction new less depreciation $98,581. N. P. Jensen's operating revenue for the year ending October 1, 1924, is reported at $18,899.11 and for the year ending October 1, 1925, at $21,850.26.

This Commission has made no examination of the properties or of the appraisals submitted by applicants. Applicants urge that the Commission at this time authorize the transfer of the properties to Charles B. Jackson and in a later proceeding, in which Charles B. Jackson will ask permission to transfer the properties to Peoples California Hydro-Electric Corporation, make such examination as it may deem necessary. While we are willing to enter an order, as requested, it should be understood that in the proceeding involving the transfer of the properties from said Charles B. Jackson to said Peoples California Hydro-Electric Corporation, the Commission may determine the issues in that proceeding without any regard to the transfer herein authorized.

ORDER.

N. P. Jensen having applied to the Railroad Commission for permission to sell his electric system and properties to Charles B. Jackson, and Charles B. Jackson having asked permission to purchase such properties, and the Commission being of the opinion that this is not a matter in which a public hearing is necessary and that this application should be granted; therefore

It is hereby ordered, that N. P. Jensen be and he is hereby authorized to sell on or before July 1, 1927, the properties described in Exhibit "A" attached to the petition filed in this proceeding to Charles B. Jackson, who is hereby authorized to acquire said properties.

The authority herein granted is subject to the following conditions:

1. Charles B. Jackson shall assume all public utility obligations of the electric system and properties of N. P. Jensen and continue to serve all consumers of N. P. Jensen at rates for service which said consumers are now paying until such time as said rates may be legally changed.

2. The authority herein granted to transfer the properties shall not be construed as a finding of the value of said electric system and properties or as an approval of the consideration which W. B. Foshay Company have agreed to pay for the properties or of the estimated reproduction cost new or of the estimated reproduction cost new less depreciation of the properties submitted in this proceeding.

3. Within thirty days after the transfer of the properties, Charles P. Jackson shall file with the Commission a certified copy of the deed

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and of any and all other instruments under which he acquires and holds titles to said properties.

Dated at San Francisco, California, this twenty-sixth day of April, 1927.

DECISION NO. 18282.

IN THE MATTER OF THE APPLICATION OF SOUTH SAN FRANCISCO TERMINAL COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL SIXTY-FIVE SHARES OF ITS CAPITAL STOCK.

Application No. 13624.

Decided April 27, 1927.

SECURITIES—STOCK—TO ISSUE AND SELL.—Application granted.

Sanborn and Rochl and DeLancey C. Smith, by *Harvey Sanborn*, for Applicant.

BY THE COMMISSION.

OPINION AND ORDER.

In this application South San Francisco Terminal Company, a California corporation, asks permission to issue and sell sixty-five shares of its common capital stock of the aggregate par value of $6,500.

The record indicates that applicant was organized by those in control of South San Francisco Land and Improvement Company for the purpose, primarily, of furnishing public terminal facilities in South San Francisco. To that end it proposes to purchase for $6,000, payable in stock, from South San Francisco Land and Improvement Company a wharf 140 feet long and 32 feet wide, located on land belonging to South San Francisco Land and Improvement Company, which is said to be suitable for the dockage of bay and river boats.

In addition the company asks permission to issue and sell one share of stock to each of its five directors.

A public hearing in this application was held before Examiner Fankhauser in San Francisco. The Commission has given consideration to the company's request and is of the opinion that the money, property or labor to be procured or paid for through the issue of stock herein applied for is reasonably required by applicant for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income; therefore

It is hereby ordered, that South San Francisco Terminal Company be and it is hereby authorized to issue $6,500 of its capital stock, and to sell $500 thereof at par to its incorporators and to use the proceeds for working capital and to deliver $6,000 of stock in full payment for the wharf referred to herein which it intends to acquire from South San Francisco Land and Improvement Company.

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It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof and that applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-seventh day of April, 1927.

DECISION No. 18283.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE AND USE FOR SINKING FUND PURPOSES OF FIVE HUNDRED SIXTY-THREE THOUSAND DOLLARS PAR VALUE OF ITS SERIES "J" BONDS.

Application No. 13654.
Decided April 27, 1927.

SECURITIES—BONDS—TO ISSUE.—Application granted.

Paul Overton, for Applicant.

BY THE COMMISSION.

OPINION AND ORDER.

Los Angeles Gas and Electric Corporation asks the Railroad Commission to make an order authorizing it to issue $563,000 of its Series "J" general and refunding mortgage 5 per cent bonds dated May 1, 1927, and due May 1, 1950, and deliver the same to the Security Trust and Savings Bank, trustee under its trust indenture of March 1, 1921, for the purpose of depositing the same in the sinking fund created thereunder.

In support of its request the company alleges that between August 1, 1926, and December 31, 1926, it expended for permanent extensions and additions, as shown in Exhibit "A," the net sum of $3,063,556.50, which has not been used as a basis for the issuance of bonds. It would use $750,666.67 of such expenditures as the basis for the issue of the $563,000 of bonds referred to herein, leaving a balance of $2,312,889.83 of construction expenditures which may be subsequently used as a basis for the issue of additional bonds. In view of the large balance we do not feel that it is necessary to examine in detail the company's reported construction expenditures. It is of course understood that the granting of this application will not preclude the Commission from questioning in subsequent proceedings any of the expenditures referred to in Exhibit "A."

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Applicant's general and refunding mortgage dated March 1, 1921, requires it on May 1, 1922, and annually thereafter on the first day of May in each year, as long as any of the bonds remain outstanding and unpaid, to pay to the Security Trust and Savings Bank, one of the trustees under such mortgage, as a sinking fund, a sum in cash equal to 1¾ per cent of the par value of the aggregate bonded indebtedness of the company outstanding on the fifteenth day of March of the year in which such payment shall become due, less the amount of cash paid and/or the aggregate par value of all bonds deposited in the sinking funds of the underlying mortgages during the immediately preceding twelve months. In lieu of cash, the company may deliver to the Security Trust and Savings Bank for sinking fund purposes at the par value thereof, bonds secured by the general and refunding mortgage. All bonds so delivered for sinking fund purposes shall be cancelled forthwith by the Security Trust and Savings Bank and delivered to the company.

It is of record that on March 15, 1927, $42,007,500 of bonds issued under the general and refunding mortgage were outstanding. One and three-fourths per cent of such amount totals $735,131.25. From this the company deducts, because of sinking fund payments made under underlying mortgages during the year ending March 14, 1927, $172,000, leaving the net amount to be paid into the sinking fund under the general and refunding mortgage on May 1, 1927, the sum of $563,131.25. It is the intention of the company to meet such payment by the delivery of the $563,000 of bonds referred to in this application and by the payment of cash to the amount of $131.25.

We believe the ratio of applicant's bonded indebtedness to its investment in its properties, its financial condition and the prices at which its general and refunding mortgage bonds are selling, warrants the Commission to grant applicant's request.

A public hearing was held in this matter before Examiner Fankhauser. The Commission is of the opinion that the money, property or labor to be procured or paid for through the issue of the $563,000 of bonds is reasonably required for the purpose specified herein, and that the expenditure for such purpose is not, in whole or in part, reasonably chargeable to operating expense or to income; therefore,

It is hereby ordered, that Los Angeles Gas and Electric Corporation be and it hereby is authorized to issue at not less than face value, $563,000 of its Series "J" general and refunding mortgage bonds for the purpose of financing in part the cost of the additions and extensions set forth in Exhibit "A" and to deposit them in the sinking fund created under and pursuant to the trust indenture, dated March 1, 1921.

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The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue of the bonds herein authorized as will enable it to file on or before 30 days after such issue, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $563.

Dated at San Francisco, California, this twenty-seventh day of April, 1927.

DECISION NO. 18287.

CALIFORNIA INDEPENDENT TELEPHONE ASSOCIATION

vs.

POSTAL TELEGRAPH-CABLE COMPANY, A CORPORATION.

Case No. 2322.

Decided April 27, 1927.

CERTIFICATE—TELEPHONE UTILITY—ILLEGAL OPERATION.—It is found that because of its operation of telephone lines prior to March 23, 1912, defendant has a franchise, state wide in character, to operate telephone lines within the state.

FORFEITURE—QUO WARRANTO PROCEEDINGS.—It is also found that this franchise can not be forfeited for alleged illegal operation save by quo warranto proceedings, brought by the Attorney General in the name of the people of the state, for good cause. Complaint dismissed.

Ernest Irwin, and *Derlin and Brookman* by *Douglas Brookman*, for the Complainant.
Max Thelen and *Willard P. Smith* for the Defendant.

BRUNDIGE, *Commissioner.*

OPINION.

The complaint in this matter alleges that the California Independent Telephone Association is a commercial association organized to safeguard the interests of its members (being telephone utility companies) in this state. It charges the defendant, Postal Telegraph-Cable Company, with maintaining telephone toll lines in this state and particularly with maintaining telephone offices at Victorville and Hesperia, in San Bernardino County, and with the construction of a telephone exchange plant in the city of Redlands, and telephone toll stations in certain of defendant's telegraph offices in the Imperial Valley. It is alleged that these extensions to defendant's telephone system have been constructed by defendant without legal authority and that in rendering telephone service over said extensions defendant is violating section 50 of the Public Utilities Act of this state to the detriment, by reason of loss of revenue, of the members of the complaining association. It is

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stated that no complaint is made with reference to any interstate telephone communication, and the prayer of the complaint is that this Commission order defendant to cease and desist from constructing telephone lines or transmitting telephone communications in the manner alleged unless and until it shall have obtained from this Commission a certificate of public convenience and necessity authorizing it to engage in such telephone operations.

In its answer Postal Telegraph-Cable Company sets up a number of defenses, the gist of which is that complainant has no sufficient interest to enable it to maintain this complaint and particularly that the operations therein specified did not and will not result in depriving complainant's members of revenue which they would otherwise receive for rendering telephone service between their several exchanges and other points in the State of California. Defendant further alleges that it constructed certain telephone lines over roads or highways of this state and operated the same for telephone business prior to March 23, 1912, the date on which the Public Utilities Act of this state became effective. It alleges that under the provisions of section 536 of the Civil Code, it possesses a state-wide franchise which, by reason of such construction, became a vested right of which it can not be deprived by action of this Commission. It further alleges that subsequent to said March 23, 1912, it continued the work of transposing its existing telegraph lines in order to enable it to handle telephone business thereover and that it has constructed a number of additional lines, properly transposed, for such telephone service subsequent to said date. It is not necessary here to recount the details of defendant's other alleged defenses.

A public hearing upon this matter was held in San Francisco on April 26, 1927. The testimony taken at said hearing discloses that Postal Telegraph-Cable Company was, in fact, operating certain lines of telephone in this state on March 23, 1912; that it has continued to construct lines, which were properly transposed for telephone service, subsequent to that date, and that it has opened a number of offices for telephone service in this state during the intervening years. While service has been rendered from Hesperia and Victorville, and particularly from a cement plant, which has been a subscriber to the service at Victorville, for a number of years, no service is now being rendered from the telephone station of defendant at Redlands nor from the telephone booths which it has installed in its telegraph offices at Brawley, El Centro and Calexico. Rates purporting to cover and provide for telephone service from the last mentioned four points have been filed with this Commission, but have not yet gone into effect.

It is our opinion that under section 536 of the Civil Code of this state as particularly construed by the Supreme Court of this state in the

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case of *Postal Telegraph-Cable Company* vs. *Railroad Commission*, 73 Cal. Dec. 254, decided February 10, 1927, this company, because of its actual construction and telephone operation prior to March 23, 1912, possesses a franchise, state wide in character, to construct and operate telephone lines within this state. It is our further opinion that this franchise can not be forfeited on the part of the state save by *quo warranto* proceedings brought by the Attorney General in the name of the people of the state for good cause. This is not such a proceeding in *quo warranto*. Although it is disclosed by the testimony herein that rates for this telephone service by defendant were not filed with this Commission prior to October 2, 1917, nevertheless they were accepted by the Commission at that time and no penalties have been invoked against this company under the provisions of the Public Utilities Act. We do not believe that this failure to file rates has of itself worked a forfeiture of the franchise granted this company under the provisions of section 536, Civil Code. We are, therefore, of the opinion that this complaint must be dismissed. We do not wish to be understood as holding that any public utility telephone corporation which commenced its construction or operation either prior or subsequent to March 23, 1912, but under circumstances and conditions different from those present in this case, may now engage in new operations without complying with the provisions of section 50 of the Public Utilities Act.

ORDER.

Complaint having been made by the California Independent Telephone Association against Postal Telegraph-Cable Company, a corporation, hearing having been held, and the Commission being now fully advised in the premises;

It is hereby ordered, that the complaint herein be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Raiload Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of April, 1927.

DECISION NO. 18288.

IN THE MATTER OF THE APPLICATION OF H. T. ROBINSON, DOING BUSINESS UNDER THE NAME AND STYLE OF OCEAN PARK HEIGHTS LAND AND WATER COMPANY TO SELL, AND OF OCEAN PARK HEIGHTS WATER COMPANY, A CORPORATION, TO PURCHASE A WATER SYSTEM, AND TO ISSUE BONDS AND STOCK IN PAYMENT THEREFOR AND FOR OTHER PURPOSES.

Application No. 13100.

IN THE MATTER OF THE APPLICATION OF H. T. ROBINSON, OPERATING UNDER THE NAME AND STYLE OF OCEAN PARK HEIGHTS LAND AND WATER COMPANY TO EXERCISE FRANCHISE RIGHTS.

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Application No. 13198.
Decided April 28, 1927.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Commission by Decision No. 17974, dated February 8, 1927, authorized the Ocean Park Heights Water Company, among other things, to issue $100,000 of its 6½ per cent 20-year bonds, subject, among others, to the condition that the authority to issue such bonds will not become effective until the Commission has authorized the Ocean Park Heights Water Company to execute a mortgage or deed of trust to secure the payment of said bonds. The Commission in its decision also indicated certain changes in the company's proposed mortgage or deed of trust filed in this proceeding as Exhibit "H." On April 25th the Commission received a revised copy of the company's proposed mortgage and/or deed of trust which the company asks permission to execute to secure the payment of an authorized issue of $500,000 of bonds including the $100,000, the issue of which the Commission authorized by Decision No. 17974. The company has modified its proposed mortgage or deed of trust so as to eliminate all of the matters to which the Commission took exception in its decision of February 8th. It appears from the company's proposed deed of trust that it intends to issue a 6 per cent 20-year bond.

We have considered the company's proposed mortgage or deed of trust filed with this Commission on April 25th and find the same to be in satisfactory form, except that section 24 of article 2 should be modified so that it shall read:

> The trustee shall authenticate and deliver bonds under this article only to an aggregate principal amount equal to 60 per cent of (a) if the permanent additions have been constructed by the water company, the actual cost thereof, (b) if the permanent additions are to be constructed by the water company, the contract price thereof, or (c) if the permanent additions have been or are to be acquired by the water company, the actual cost to the water company thereof or the fair value thereof (less accrued depreciation) whichever shall be less, if such permanent additions are free from prior liens or charges; and if such permanent additions shall be subject to any prior liens or charges the trustee shall authenticate and deliver under this article only such an amount of bonds as together with the aggregate amount of such existing prior liens and charges shall not exceed 60 per cent of the cost or fair value of such permanent additions, whichever shall be less.

It is hereby ordered, that Ocean Park Heights Water Company be and it is hereby authorized to execute a mortgage and/or deed of trust substantially in the same form as the mortgage or deed of trust filed with the Commission on April 25, 1927, provided the same is amended as herein indicated; and provided, further, that the authority herein granted to execute said mortgage and/or deed of trust is for the purpose of this proceeding only, and is granted in so far as this Com-

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mission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject,

It is hereby further ordered, that within thirty days after the execution of the said mortgage and/or deed of trust, Ocean Park Heights Water Company shall file two certified copies of said mortgage and/or deed of trust with the Railroad Commission.

It is hereby further ordered, that the order in Decision No. 17974, dated February 8, 1927, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-eighth day of April, 1927.

DECISION No. 18289.

IN THE MATTER OF THE JOINT APPLICATION OF EL DORADO WATER CORPORATION, A CORPORATION, AND EL DORADO IRRIGATION DISTRICT, FOR AN ORDER FROM THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA TO AUTHORIZE THE FORMER TO SELL AND CONVEY AND THE LATTER TO PURCHASE AND ACQUIRE THE PROPERTIES HEREINAFTER DESCRIBED; AND FOR AN ORDER AUTHORIZING THE EL DORADO WATER CORPORATION TO CEASE FURNISHING WATER TO THE PUBLIC USE.

Application No. 13615.

Decided April 28, 1927.

TRANSFER—WATER UTILITY—TO SELL.—In granting the application the Commission imposes the condition that after the transfer of the properties of the corporation to the irrigation district present consumers of the corporation shall be furnished with water to the extent, at least, of their present supply, and at fair rates.

Stephen F. Otis of *Hinsdale, Otis and Johnson*, for El Dorado Water Corporation. *Raymond A. Leonard* and *Thomas Maul*, for El Dorado Irrigation District.

LOUTTIT, *Commissioner*.

OPINION.

In this proceeding, El Dorado Water Corporation, a corporation engaged in the public utility business of selling water for domestic, irrigation and commercial purposes in El Dorado County, asks authority to sell its properties to El Dorado Irrigation District, which joins in the application.

A public hearing in this proceeding was held at Placerville after all interested parties had been duly notified and given an opportunity to appear and be heard.

From the evidence it appears that El Dorado Water Corporation is now delivering water to approximately 6000 acres of land planted principally to young pear orchards, and that because of the limited water supply of the utility, it is practically impossible to extend service

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to other lands in the area served and now desiring water. The present water supply is obtained from Western States Gas and Electric Company, a corporation, under the terms of a written agreement providing for the delivery of 40 second-feet of water for agricultural purposes and 5 second-feet for mining use during the irrigation season. The utility also receives a small additional supply from the natural flow of Webber Creek upon which it has a dam providing a small amount of storage.

In order to meet the demands for more water, which could not be met by reason of the financial condition of the utility, the El Dorado Irrigation District has been formed which now includes some 30,700 acres of land of which about 20,000 acres are susceptible to irrigation. This district proposes to develop an additional water supply by means of storage on Sly Park Creek, a tributary of the Cosumnes River, which, under the first step of the proposed development, will provide sufficient water to irrigate 4000 acres in addition to those now served by the utility. More water can be developed on other branches of the Cosumnes River as the future demands require until the whole irrigable area within the district boundaries is supplied. A bond issue of $1,300,000 has been voted by the district, out of which it is proposed to pay $365,527.63 for the properties and rights of the El Dorado Water Corporation, provided the transfer is made as of June 1, 1927. The remainder of the bond issue is to be used to cover the cost of the first storage unit on Sly Park Creek.

The district boundaries include all the lands now served by the El Dorado Water Corporation. However, about six landowners, representing some 200 acres of land, elected to stay out of the district, and their lands were excluded. Of the above 200 acres, 86 are now under irrigation. However, according to the testimony, these lands will be admitted to the district upon proper application, and the district will continue to serve these landowners with water at reasonable rates and in the amounts they had used in the past.

In order to protect the present water consumers and assure them a continued supply of water in the quantities now being delivered, the Commission was asked to include in its order a provision which will insure the present consumers the right to the water now supplied. Owing to the limited quantity of water available and possible damage that might result to the present users in case the additional supply of water should not be available, the following order will provide for the delivery of water to the present consumers in the amounts established by use in the past.

Applicants further requested that the terms of the option providing for the transfer of the property to take place in the months of October, November and December of any particular year be amended in accord-

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ance with a stipulation entered into by and between the utility and the district which provided for the transfer to be made as of June 1, 1927, and that the consideration be $365,527.63. This amendment was proposed for the purpose of expediting the transfer, and appears reasonable, as the bonds have already been sold and it is expected that the funds therefrom will be available on June 1st of this year. This arrangement will permit the district to enter immediately into its construction program for the development of additional water supply and will result in making it available for use within the district at a correspondingly earlier date.

The Commission is also asked to authorize the El Dorado Water Corporation to cease furnishing water for public use in El Dorado County. As the testimony shows that the district will take over all the corporation's existing obligations as to service, this permission will be granted.

The following order is suggested:

ORDER.

El Dorado Water Corporation, a corporation, having made application to transfer its properties in El Dorado County to El Dorado Irrigation District, which joins in the application; a public hearing having been held thereon; the matter having been submitted, and the Commission being now fully informed in the matter;

It is hereby ordered, that El Dorado Water Corporation, a corporation, be and it is hereby authorized to transfer to El Dorado Irrigation District, its irrigation system and water properties as more particularly described in and subject to the terms and conditions of Exhibit "A" attached to the application herein and made a part hereof, and upon the following further conditions:

1. That portion of the option entered into by and between El Dorado Water Corporation and the El Dorado Irrigation District, providing for the transfer of the properties of said corporation during the months of October, November and December, may be amended to permit the transfer to take place as of June 1, 1927, in accordance with the stipulations filed by both parties to the option.

2. The indentures of transfer to be executed by the El Dorado Water Corporation for the properties herein authorized to be conveyed shall provide among other things that upon and after the transfer to it of said properties, the El Dorado Irrigation District shall serve and continue to serve with water the lands now served by said water corporation with water; and that the people therein, or any thereof, shall be entitled upon and after such transfer to obtain water from the said district to at least the same extent as the said water corporation was obliged to furnish water; provided, further, that any tolls or charges

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that may be charged or fixed for such water or services by said district shall be fair and equitable.

3. The authority herein granted shall apply only to such transfer as may have been made on or before December 31, 1927, and a certified copy of the final instrument of conveyance shall be filed with the Commission by El Dorado Water Corporation, a corporation, within thirty days from the date on which it is executed.

4. Within ten days of the date upon which El Dorado Water Corporation, a corporation, actually relinquishes control and possession of the property herein authorized to be transferred, it shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

It is further ordered, that upon the completion of the transfer herein authorized and upon the compliance by El Dorado Water Corporation, a corporation, with the foregoing terms and conditions, the said corporation shall stand relieved of its obligations and liabilities as a public utility to supply water to its consumers.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-eighth day of April, 1927.

DECISION No. 18291.

IN THE MATTER OF THE APPLICATION OF KEY SYSTEM TRANSIT COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR BUS SERVICE BETWEEN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, AND HAYWARD, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 12568.

IN THE MATTER OF THE APPLICATION OF PEERLESS STAGES, INCORPORATED, A CORPORATION, FOR PERMISSION TO REROUTE A PORTION OF ITS OPERATIONS BETWEEN OAKLAND AND HAYWARD AND INTERMEDIATE POINTS.

Application No. 13178.

Decided April 29, 1927.

CERTIFICATE—MOTOR BUS SERVICE—TO OPERATE.—Holding that neither applicant is in a position to sustain the expected loss while developing patronage over the proposed Foothill boulevard route, the Commission dismisses both applications without prejudice.

Brobeck, Phleger and Harrison, by *W. J. Brobeck,* for Key System Transit Company, Applicant in Application No. 12568 and Protestant in Application No. 13178.

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Harry A. Encell and *James A. Miller*, by *Harry A. Encell*, for Peerless Stages, Incorporated, Applicant in Application No. 13178 and Protestant in Application No. 12568.
Leon Gray, City Attorney, for City of Oakland.
Arthur M. Carden, City Attorney, for City of San Leandro.

BY THE COMMISSION.

OPINION.

In Application No. 12568, as amended, Key System Transit Company, a corporation, has petitioned the Railroad Commission for an order declaring the public convenience and necessity require the operation by it of a motor bus service as a common carrier of passengers between Oakland and Hayward via Foothill boulevard.

In Application No. 13178, as amended, Peerless Stages, Incorporated, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the establishment by it of an alternate route for the transportation of passengers, express and baggage between Oakland and Hayward, via Foothill boulevard, said proposed alternate route to be operated in addition to the operative route between said Oakland and Hayward as now operated by applicant via East Fourteenth street; and to operate auto stage service for the carriage of passengers, baggage and express from the intersection of "A" and Castro streets, Hayward, to the intersection of "A" street and Mount Eden highway, Hayward.

Public hearings on the above entitled applications were conducted by Examiner Handford at Oakland, the matters were duly consolidated for the receiving of evidence, were duly submitted following the filing of briefs and are now ready for decision.

Applicant Key System Transit Company proposes to charge rates of 21 cents for a one-way continuous trip and for intermediate trips to provide three fare zones: one between the business section of Oakland and Estudillo avenue, San Leandro; one between Estudillo avenue, San Leandro, to the county hospital, and one between the county hospital and the terminus of the line in Hayward, the fare proposed in each of these zones being 7 cents. Applicant proposes to operate on a schedule commencing at Oakland terminal at 6 a.m. and continuing on a twenty-minute headway until 8 p.m.; thereafter on a twenty-minute headway between the Oakland terminal and Ninty-sixth avenue, Oakland, until 11 p.m. and on an hourly headway between Oakland and Hayward from 8 p.m. until 11 p.m.

The equipment proposed to be used will be five motor busses of a modern street car type each with seating capacity of 25 or 29 passengers.

The route proposed by this applicant is as follows:

> Beginning at Thirteenth and Clay streets and running thence northerly on Clay street to Fourteenth street; thence easterly on Fourteenth street to Twelfth street dam; thence easterly across Twelfth street dam and along East Twelfth street to High street; thence northeasterly on High street to

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Foothill boulevard; thence southeasterly along Foothill boulevard and First street, Hayward, to D street; thence southwesterly along D street to Castro street; thence returning northwesterly along Castro street to B street; thence northeasterly along B street to First street and Foothill boulevard; thence northwesterly along Foothill boulevard to High street; thence southwesterly along High street to East Twelfth street; thence northwesterly along East Twelfth street across Twelfth street dam and on Fourteenth street to Thirteenth street; thence westerly along Thirteenth street to Clay street and point of beginning.

Applicant relies as justification for the granting of the application on the following alleged facts: (1) that applicant is now operating a bus line known as the Foothill boulevard line from the intersection of Ygnacio and Trask street, thence along said Trask street to Foothill boulevard, thence along Foothill boulevard to Ninety-sixth avenue, thence along Ninety-sixth avenue to East Fourteenth street, and returning over the same route; and that the proposed bus service will be operated in lieu of the last described service, except for continued operation of the portion operated on Ninety-sixth avenue between East Fourteenth street and Foothill boulevard; (2) that the proposed bus line will serve Foothill boulevard and the adjacent territory between Trask street and Hayward, giving through service to and from the business section of Oakland and to and from the business section of Hayward, in connection with applicant's East Fourteenth street car line which car line serves the territory adjacent to East Fourteenth street between the business district of Oakland and Hayward and intermediate points, said car line having been operated by applicant and its predecessors for many years and being the first regular transportation between such points; (3) that the proposed bus line will be operated as an express line west of Trask street, only making stops eastbound to take on passengers between the business section of Oakland and Trask street when such passengers are destined to points east of Trask street, and stopping westbound between Trask street and the business section of Oakland only to discharge passengers who may have boarded busses at said Trask street or at points east thereof; (4) that the proposed motor bus line will connect with cars now operated by applicant and transfer will be issued and accepted to and from all connecting bus and street car lines now operated by applicant; (5) and that the residents of the territory to be served by the proposed motor bus line will, under the proposed operation, be given a more rapid and expeditious means of transportation than is at present available.

Applicant Peerless Stages, Incorporated, proposes to charge rates in accordance with a schedule marked "Exhibit A" as filed with the amended application herewith, to operate on a schedule leaving terminals at Oakland and Hayward at 7 a.m. and continuing on a thirty-minute headway until the last schedule leaving terminals at 7 p.m.; using as equipment modern passenger busses of sufficient capacity to

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meet the requirements of the public using the proposed service. The route proposed to be established by applicant is as follows:

> Leaving Eleventh and Clay streets, Oakland, north bound to Twelfth street, Oakland; thence easterly over and along East Twelfth street to Fiftieth avenue; thence northerly along Fiftieth avenue to Foothill boulevard; thence in an easterly direction over and along Foothill boulevard to Durant avenue, which last named marks the boundary line of Oakland; thence southerly along Durant avenue to Hollywood boulevard, as the same is delineated and so designated as a public street in the city of San Leandro; thence easterly on Hollywood boulevard; thence in an easterly direction over and along Foothill boulevard to A street, Hayward; thence along A street, Hayward, southerly to Castro street; and thence in an easterly direction to the southeasterly city limits of Hayward. Also departing from A and Castro street, Hayward, running thence over and along Dublin road in a northerly direction to Castro Valley junction; thence in a southerly and southwesterly direction over and along Castro Valley road in and to East Fourteenth street, as said street is delineated and designated in the cities of Oakland and San Leandro, and the continuation thereof known as Castro street in the city of Hayward, to A street; thence in a southerly direction to Mount Eden highway, the terminal, and returning over and along the foregoing route in a reverse direction from A and Castro streets, Hayward.

Applicant relies as justification for the granting of the desired certificate upon the fact that it has received requests from various public bodies for the establishment of the proposed service.

Earl S. Beatie, general sales manager for C. P. Murdock, real estate subdivider, testified his concern had a subdivision located on the proposed route west of Castro Valley road and extending from east Fourteenth streeet over and north of Foothill boulevard; that there was a necessity for a transportation system on Foothill boulevard by reason of property being developed and to be developed north of the boulevard at a quite substantial distance from existing transportation on East Fourteenth street.

T. H. Burke, J. E. Corkner and H. C. Colterjohn, real estate operators, confirmed the testimony of the previous witness.

Richard E. Dennis, subdivision sales manager for Fred T. Wood and Company, testified his concern was now engaged in the sale of three subdivisions, all within a half-mile of Foothill boulevard, one located on Dutton avenue at the end of Bancroft avenue, one on Dutton avenue between Bancroft avenue and Foothill boulevard, and one at the intersection of Foothill boulevard and Estudillo avenue. Witness was of the opinion that service as proposed on Foothill boulevard should be established, as due to the absence of transportation people do not care to establish homes and 70 per cent of the prospective lot purchasers objecting to the lack of transportation.

A. C. Jensen, located at the Alameda County Hospital on the Foothill boulevard, testified the hospital had a population of about 900 persons, of whom about 670 were patients. The residents of the hospital and visitors, the latter averaging between 75 and 100 per day,

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use transportation to and from Oakland and other points in Alameda County, and at the present time there is no public transportation service available excepting the street car service operated on East Fourteenth street.

Jacob Harder, Jr., secretary of the Hayward Chamber of Commerce and justice of the peace at Hayward, testified regarding the development of territory in the districts along the Foothill boulevard from Hayward to Estudillo avenue as consisting of from 800 to 1000 homes, and for the need of residents of the Castro Valley territory for transportation to and from Hayward.

R. J. Larkey, in the real estate and insurance business near Hayward, testified he was president of the Sunset Improvement Club and a delegate to the Federated Improvement Club, said club representing a membership of about 1200 people; that the Federated Improvement Club had indorsed the establishment of an automobile stage between Oakland and Hayward, provided such line would furnish a feeder service into the Castro Valley and Lower A street districts.

G. W. Appleby, a resident of Castro Valley and president of the Castro Valley Improvement Club, an organization of over 100 members, testified that his organization had endorsed the application of Peerless Stages, Incorporated, the service proposed offering transportation to an estimated population of 2500 people in Castro Valley.

Mrs. George Walker, president of the Associated Parent-Teacher Association, in the Hayward district, testified in behalf of the Peerless application as regards service proposed to be rendered in the Castro Valley section and the convenience to school children and residents in the elimination of long distances now required to be traversed to utilize existing transportation.

John Dengel, J. Jorgenson, Mrs. J. H. Rowell, G. C. Vinton, Mrs. N. J. Wright, W. H. Rich, J. L. Davidson and C. N. Pickens testified as to the service to be available by the proposed stage line, all these witnesses now being located a considerable distance from existing public transportation.

The application of Key System Transit Company is endorsed by Sequoyah District Improvement Club, and that of Peerless Stages, Incorporated, by the San Leandro Chamber of Commerce, the Hayward International Lions Club, the board of directors of the Hayward Chamber of Commerce, and as regards the Castro Valley and Lower A street extension by a petition bearing 137 signatures of residents of the sunset school district. The endorsement of the San Leandro Chamber of Commerce as originally given to applicant Peerless Stages, Incorporated, was modified by resolution to the effect that if but one certificate be granted for the service sought by both applicants, such certifi-

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cate should be issued to the applicant offering the most complete and efficient service to the residents of the city of San Leandro.

The proposed service to be rendered by applicant Key System Transit Company as set forth in an exhibit filed (Key System Exhibit No. 6), will require the operation of 1561 bus miles daily. According to the record, the actual cost of bus operation by the Key System Transit Company is 25 cents per bus mile. On the basis of the daily bus mileage the annual mileage would amount to 569,765 miles, which, at a cost of 25 cents per mile, would result in an operating cost of $142,441.25. The proposed service of the Peerless Stages, Incorporated, would require, according to the testimony of this applicant's president and general manager, a daily operation of 180 miles on the "stub line" and between 600 and 700 miles on the Foothill boulevard line. Testimony was also of record that the operating cost per bus mile would be between 15 and 16 cents. Assuming a daily total mileage of 830 and a cost per bus mile of 15½ cents the annual operation cost would be $46,957.25. This estimate of operating cost per bus mile is evidently intended to cover only the actual "out-of-pocket" costs, with no allowance for overhead, supervision or depreciation, the actual operating costs per bus mile on the Peerless System having been 24.59 cents in 1925 and 20.2 cents in 1926, as shown by compilations made from the annual reports of such company as filed with this Commission.

The establishment of motor bus service by either of the applicants in accordance with their respective proposals will, as regards operation over the Foothill boulevard between Oakland and Hayward, duplicate the service now rendered by each of such applicants between such terminals, one by its rail line and the other by its motor stage line, both operating on East Fourteenth street. It is therefore apparent that a diversion of a considerable amount of through traffic would be cared for by each applicant, such through traffic being diverted from their existing lines and the new business to be cared for being that originating or terminating at points along the Foothill boulevard and the Castro Valley extension which are not now served by public transportation facilities. While the record shows no reliable estimate of the volume of such new business, it does indicate that such business would not at this time provide a revenue which would meet or approximate the necessary operating expense and the testimony of Jos. B. Held, president of applicant Peerless Stages, Incorporated, and a motor stage operator of many years experience, shows that as regards his company he anticipated that the operation "could break even in a year on Foothill boulevard" and was uncertain as to when the Castro Valley extension could be made to pay its expense of operation.

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In this proceeding the Commission finds a situation where the proposed service will meet the public convenience and necessity of a number of prospective patrons who now reside at points not within a reasonable distance from existing public transportation. The establishment of the proposed service, however, does not indicate, nor can it be reasonably anticipated from the record herein, that the revenue to be derived from operation will meet the necessary "out-of-pocket" cost of operation for some time, possibly two or more years. The proposed service will divert a considerable amount of business from already existing lines of both applicants, leaving the new business from the territory now served as the source of revenue from which the cost of operation must be secured. The cost of pioneering or development must, therefore, be borne by the patrons of already existing service of applicants herein and neither applicant is conducting its present operation with a return of revenue which would justify the Commission in authorizing additional service into new territory when it is shown that for some time an operating loss will require to be assumed. Both applicants have been before the Commission for increased rates, the application of Key System Transit Company for an increase of rates being now pending.

The Commission has heretofore held that public necessity for the operation of auto stage lines must be determined by the needs of the public at large, and that it can not be predicated on an applicant's belief that business may be developed. (Applications *Motor Transit Co. et al.*, C. R. C. 21, p. 509, Application *De Luxe Stage Co.*, C. R. C. 21, p. 76.) Under the state of facts as herein presented, the general public, as now served by the lines of the respective applicants, would be required to meet the deficits arising from the operation of the proposed service, and in the case of one applicant herein the Commission now has before it a petition for increased rates to enable such applicant to meet its operating costs and to realize an adequate return upon its investment.

The record shows a public convenience and necessity to be served by the granting of the authority sought by both applicants. Such public convenience and necessity, however, is not sufficient in extent to enable either applicant to meet the necessary operating expenses required in the performance of the service and there is no evidence justifying the conclusion that the revenue to be secured will meet such operating costs within an extended period. Neither applicant being in a financial condition, as regards net revenue sufficient to justify the assumption of unknown deficits which would follow the establishment of the proposed development or pioneering service, the deficits would require

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to be absorbed by the revenue now received from patrons of existing authorized lines. The situation here presented is one in which a possible solution would be for applicants, or either of them, to negotiate with interested parties for whom the establishment of the proposed service would be desirable, to arrange to finance the deficit between operating cost and revenue for some representative period.

After full consideration of the record herein, we are of the opinion and hereby find as facts: (1) that the public convenience and necessity require the establishment of service over the routes herein proposed by applicants; (2) that the volume of traffic reasonably to be anticipated over the routes herein proposed will not return at this time the out-of-pocket cost of operation; and (3) that the probable revenue to be derived from the operation herein proposed does not justify the establishment of the service at this time by either of the applicants, one of whom is now before the Commission in a proceeding seeking an increase in rates, the other having recently received a rate increase and now showing, by its annual report to this Commission, a low rate of return on its investment.

ORDER.

Public hearings having been held on the above entitled applications, which were consolidated for the purpose of receiving evidence and decision, the matter having been duly submitted following the filing of briefs, the Commission being now fully advised and basing its order on the findings of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that the application of Key System Transit Company, a corporation (Application No. 12568), and of Peerless Stages, Incorporated, a corporation (Application No. 13178), be and the same hereby are dismissed without prejudice.

Dated at San Francisco, California, this twenty-ninth day of April, 1927.

DECISION NO. 18292.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE CITY COUNCIL OF THE CITY OF PETALUMA BY ORDINANCE NO. 298 (CHARTER SERIES) ON THE NINETEENTH DAY OF JULY, 1926.

Application No. 13256.

Decided April 29, 1927.

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FRANCHISE RIGHTS—TO EXERCISE.—Applicant authorized to exercise franchise rights in city of Petaluma.

J. G. Marshall, Attorney for Applicant.

BY THE COMMISSION.

OPINION.

The Pacific Telephone and Telegraph Company in this proceeding requests the Commission for an order granting it a certificate that public convenience and necessity require the exercise by it of certain rights and privileges conferred upon it under the franchise granted it by the city council of the city of Petaluma by Ordinance No. 298 (charter series) on the nineteenth day of July, 1926.

A hearing in the application was held by Examiner Satterwhite in San Francisco on April 14, 1927, at which place and time the matter was submitted for decision.

Applicant is now, and for many years in the past has been, lawfully engaged in the operation of a general telephone and telegraph business in the city of Petaluma. The company's witness stated at the hearing that the acquisition of the certificate as requested in the application would not, of itself, result in any change in the operations or service of applicant in the city of Petaluma.

Mr. Marshall, attorney for applicant, stipulated that The Pacific Telephone and Telegraph Company would never claim any value for the franchise, a copy of which was marked "Exhibit A" and attached to the application, greater that $161.29, which is the amount of the cost to it of such franchise.

No objection was made to the granting of the application. It appears that public convenience and necessity will be served by the granting of the request of applicant.

ORDER.

The Pacific Telephone and Telegraph Company having requested this Commission for an order granting it a certificate that public convenience and necessity require the exercise by it of certain rights and privileges conferred upon it under the franchise granted it by the city council of the city of Petaluma by Ordinance No. 298 (charter series), on the nineteenth day of July, 1926, a copy of said franchise having been filed with the Railroad Commission as "Exhibit B" attached to the application, and applicant having stipulated that it will never claim any value for the aforesaid franchise in excess of the sum of $161.29, which is the amount of the cost to it of such franchise, a public hearing having been held in the application, the matter having been submitted and being now ready for decision:

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The Railroad Commission hereby declares that public convenience and necessity require the exercise of the rights and privileges granted by said franchise; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted to The Pacific Telephone and Telegraph Company authorizing the exercise by it of the rights and privileges granted to it in Ordinance No. 298 (charter series), dated July 19, 1926, by the city council of the city of Petaluma.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-ninth day of April, 1927.

DECISION NO. 18295.

VALLEJO ELECTRIC LIGHT AND POWER COMPANY, A CORPORATION,

vs.

GREAT WESTERN POWER COMPANY OF CALIFORNIA, A CORPORATION.

Case No. 1643.

Decided April 29, 1927.

CERTIFICATE—ELECTRIC UTILITY—TO OPERATE.—Petition of Great Western Power Company of California for certificate to serve territory within radius of 4000 feet of the north bridgehead of Carquinez bridge, denied.

Frank R. Devlin, for Complainant.
Chaffee E. Hall, for Defendant.

LOUTTIT, *Commissioner.*

SUPPLEMENTAL OPINION AND ORDER.

On July 12, 1922, the Railroad Commission of the State of California made its order (Decision No. 10700) in the above numbered proceeding, amending and modifying its order of July 18, 1912 (Decision No. 107), granting a certificate of public convenience and necessity to Great Western Power Company of California, and its order of July 3, 1917 (Decision No. 4438), granting a certificate of public convenience and necessity to Vallejo Electric Light and Power Company.

On March 3, 1927, Great Western Power Company of California filed its petition for modification of said Decision No. 10700, asking the Commission to authorize it to construct electric distribution facilities and render electric service within that portion of the territory involved in Decision No. 10700 included within a radius of 4000 feet from the north bridgehead of Carquinez bridge.

Hearings were held at San Francisco on April 15th and 22d, testimony being introduced and the matter submitted for decision.

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It appears from the evidence that neither Great Western Power Company of California nor Vallejo Electric Light and Power Company was, on the date this matter again came before the Commission, in substantially a different position with respect to their facilities to render service within the area in question than they occupied when Decision No. 10700 was rendered, except as to certain lines which were constructed by Great Western Power Company of California under stipulation entered into with Vallejo Electric Light and Power Company, which can not properly be considered in the present matter.

It also appears that conditions under which electric service would be rendered in the area in question are no different than those which were to have been expected when Decision No. 10700 was rendered, except as may result from a greater development which may now be anticipated in view of the construction of Carquinez bridge.

It is felt that where this Commission has determined that public convenience and necessity require service from a certain utility, or has prescribed certain conditions under which a utility may serve within an area, such finding should not be disturbed unless physical or economic conditions have materially changed. No such showing has been made and the order will provide for denial.

Under Decision No. 10700 the area which Great Western Power Company of California has asked to serve was allotted to Vallejo Electric Light and Power Company, except that Great Western Power Company of California was permitted to serve from certain distribution facilities within the area.

I recommend the following form of order:

ORDER.

Great Western Power Company of California having asked the Commission to modify and amend its order in Decision No. 10700 in such manner that Great Western Power Company of California may serve any consumers desiring service in that portion of the territory described in Decision No. 4438, included within a radius of 4000 feet from the north bridgehead of Carquinez bridge, and no cause appearing for the modification of said opinion and order;

It is hereby ordered, that the petition of Great Western Power Company of California be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of April, 1927.

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DECISION NO. 18296.

PAN AMERICAN PETROLEUM COMPANY

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY.

Case No. 2340.

Decided April 29, 1927.

RATES—RAILROAD—CRUDE OIL—REPARATION.—Reparation awarded to complainant of all charges collected in excess of 20½ cents per 100 pounds for the transportation of 46 carloads of crude oil from Casmalia to Watson during the period May 21, 1924, to February 14, 1925, inclusive.

BY THE COMMISSION.

OPINION.

Complainant, a corporation, organized under the laws of the State of California with its principal place of business at Los Angeles, is engaged in producing, refining and marketing petroleum oil and its products. By complaint filed March 30, 1927, and as amended April 8, 1927, it is alleged that the rate charged on 46 carloads of crude oil shipped during the period May 21, 1924, to February 14, 1925, inclusive, from Casmalia to Watson, California, was unreasonable and in violation of section 13 of the Public Utilities Act of the State of California to the extent it exceeded a rate of 20½ cents.

The shipments involved in this proceeding were registered with this Commission May 17, 1926, under informal complaint 35045, thereby tolling the statute of limitation.

An award of reparation is sought. Rates are stated in cents per 100 pounds.

Casmalia is on the Southern Pacific Coast Division 184 miles from Los Angeles, and Watson is on Pacific Electric and Southern Pacific approximately 16 miles from Los Angeles. The shipments involved moved via Southern Pacific to Los Angeles, thence Pacific Electric Railway to destination. The applicable charges were based on a combination rate of 21 cents, made 18 cents to Los Angeles plus 3 cents beyond. Concurrently there was a rate of 20½ cents maintained by the Southern Pacific Company published in its Tariff 333-G, C. R. C. 2496, applicable from and to the points involved.

Effective February 15, 1925, defendants voluntarily established a joint through rate of the same volume, published in Pacific Freight Tariff Bureau Tariff 167-C, C. R. C. 346.

Complainant bases its plea for reparation upon the lower rate subsequently established. Defendants admit the allegation of the complaint and have signified a willingness to make reparation adjustment.

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therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assailed was unreasonable to the extent it exceeded the subsequently established rate of 20½ cents. We further find that complainant paid and bore the charges on the shipments involved in this proceeding and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable, and that it is entitled to reparation.

Complainant will submit statement to defendants for check. Should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Southern Pacific Company and Pacific Electric Railway Company, according as they participated in the movement, be and they are hereby authorized and directed to refund to complainant, Pan American Petroleum Company of Los Angeles, all charges they may have collected in excess of 20½ cents per 100 pounds on the shipments involved in this proceeding forwarded from Casmalia to Watson during the period May 21, 1924, to February 14, 1925, inclusive.

Dated at San Francisco, California, this twenty-ninth day of April, 1927.

DECISION NO. 18301.

IN THE MATTER OF THE APPLICATION OF THE PETALUMA AND SANTA ROSA RAILROAD COMPANY, A CORPORATION, FOR AUTHORITY TO REMODEL ITS PASSENGER EQUIPMENT, SO AS TO OPERATE THE SAME WITH ONE EMPLOYEE.

Application No. 13544.

Decided April 29, 1927.

SERVICE—ELECTRIC RAILROAD—PASSENGER EQUIPMENT—TO REMODEL.—Petaluma and Santa Rosa Railroad Company authorized to remodel its passenger equipment to operate one-man cars experimentally for six months as an economy measure permitting continuance of passenger operations, heretofore conducted at a loss.

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Donald Geary and *E. H. Maggard*, for Applicant.

WHITSELL, *Commissioner.*

OPINION.

In this application the Petaluma and Santa Rosa Railroad Company, a corporation, asks for permission to install one-man passenger car operation. A public hearing was held in this matter at Santa Rosa on March 19, 1927.

The tracks of the Petaluma and Santa Rosa Railroad Company extend in three directions from Sebastopol, viz: to the southeast to Petaluma, a distance of 16.65 miles, to the northeast to Santa Rosa, a distance of 7.76 miles and to the northwest to Forestville, a distance of 7.18 miles. In addition to these three trunk lines, there is a branch line diverting from the Sebastopol-Petaluma line at Liberty and extending in a westerly direction to Two Rocks. This branch line is approximately 5 miles in legth and is operated exclusively for freight service.

The record shows that all passenger service on this system is rendered by single-car trains, except for two round trips daily between Sebastopol and Santa Rosa when a trailer car is handled for the purpose of carrying express. These cars are of a size and type used generally in interurban electric railway train service. At the present time the cars are manned with a motorman and conductor. The passenger trains handle a small amount of express, consisting principally of cream, eggs and small packages, which produces, on the average, an income of about $300 per month. No mail is handled on these trains. The passenger service consists of the following trains:

> Between Sebastopol and Petaluma, 11 trains per day in each direction, except on Sundays when the service is reduced to 10 trains, these trains being distributed throughout the day between 6 a.m. and 11 p.m. This line hauls about 35 per cent of the total number of passengers carried on the entire system.
>
> Between Sebastopol and Santa Rosa, 18 train movements in each direction per day. In general, this is hourly service between 7 a.m. and 11 p.m. This line carries about 50 per cent of the total passengers carried on entire system.
>
> Between Sebastopol and Forestville, 15 train movements in each direction per day, which results in approximately an hourly service between 7 a.m. and 11 p.m. This line carries about 15 per cent of the total passengers carried on entire system.

The record shows that the maximum speed of the passenger trains is between 30 and 35 miles per hour. The passenger cars operate on a definite schedule with positive meets. The time schedule is liberal enough so that the trains ordinarily have no difficulty in maintaining their schedule.

In addition to the passenger service, the company operates freight trains over its lines. The company has seven freight motors. Normally, two freight trains per day in each direction take care of the entire freight shipments. Additional freight trains are required during the harvest season (July to September, inclusive) to move deciduous fruits.

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consisting largely of apples. The record shows that in addition to the passenger trains, there are never more than two freight trains operated on any one of the three trunk lines enumerated above at one time. It is estimated that the maximum speed of these freight trains is 25 miles per hour. All the freight trains are run as extras under No. 31 Train Orders and are required to protect against all regular trains and must be able to stop within the range of vision.

The company maintains a telephone line along its tracks with stationary phones spaced at various intervals, which are shown on the time table, as follows:

Sebastopol-Petaluma Line—9 telephones, with an average distance of 1.7 miles between phones;
Sebastopol-Santa Rosa Line—5 phones, with an average distance of 1.3 miles between phones; and
Sebastopol-Forestville Line—4 phones, with an average distance of 1.4 miles between phones.

In addition to the stationary phones, each crew carries a portable head-set phone which affords a means of getting in touch with the dispatcher, by attaching it to the telephone wire at any point along the line.

This utility's record shows the following operating results from passenger service during the past seven years:

Year	*Passengers carried*	*Allocated expense*	*Gross earnings*	*Net earnings*
1920	652,540	$85,590 83	$115,451 04	$29,860 21
1921	638,644	112,607 15	117,921 71	5,314 56
1922	491,672	112,941 04	96,653 68	—16,287 36
1923	408,175	111,863 40	78,593 00	—33,270 40
1924	368,852	88,945 52	62,939 27	—26,006 25
1925	279,962	74,646 25	48,513 07	—26,133 18
1926	273,789	82,671 04	46,269 10	—36,401 94

This record clearly indicates that the passenger business of this utility is steadily declining and unless some material change takes place, in the way of an increase in volume of business, a modification of rates or a reduction of the operating expenses, the company will continue to incur substantial losses from this service. The record indicates that no material saving can be effected by a reduction in the number of trains without seriously interfering with the service. Applicant contends that if the passenger service is further reduced the loss in revenue will exceed the saving in operating expenses.

The application now under consideration looks toward a decrease in operating expense without a reduction in the service. E. H. Maggard, president and general manager of the Petaluma and Santa Rosa Railroad Company, testified that the company did not expect to make any profit out of the passenger business and desired to operate it as long as it would at least pay actual operating expenses.

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The matter of establishing one-man car operation for interurban electric passenger service is a subject which justifies very careful consideration, especially on single track lines which are not protected by block signals and over which freight trains are also operated. In this particular case, where the train service is infrequent, it appears that in order to maintain the passenger service which is a material benefit to this community, every reasonable modification, consistent with safety to the traveling public and the employees of this railroad, should be effected so as to reduce the operating expenses to a minimum. The company contends that conditions do not justify the expense of installing block signals on its line and furthermore the diminishing revenue from passenger service does not warrant this expenditure if it is required solely for this class of operation.

From the record in this proceeding, with particular reference to the few trains operated on applicant's tracks, it appears that one-man car operation could not be put into effect without endangering the lives of the traveling public and the employees of this company if the operation is conducted under rigid enforcement of certain regulations and safety restrictions. Under these conditions, a trial of such service would appear to be justified in this case. It is very important that if the passenger cars are to be operated by one man, all freight trains should be operated at such speed that they can at all times stop within the range of their vision. This means that in operating around sharp curves where the view is restricted and also in cases where the view is impaired by fog or other unfavorable weather or physical conditions, the speed of freight trains should be reduced and motormen of freight trains should at all times be prepared to stop within their range of vision. It appears reasonable that if this utility is permitted to put one-man car operation into effect, the maximum speed of freight trains on curves should be reduced to 8 miles per hour where the clear view is less than 500 feet and also the utility should provide telephone facilities at locations where the speed of freight trains is restricted. Such additional phone facilities could be provided by the installation either of stationary phones or drop lines with jack outlets. Appropriate equipment should be provided on all passenger cars operated by one man, including safety doors and dead-man control.

In view of the fact that this is somewhat of an experimental plan, it would seem proper that the permission to operate single passenger cars with one man should be granted on a trial basis for a limited time, after which the Commission can determine from the results obtained whether or not the order should be extended indefinitely, modified or annulled. If it is found that one-man car operation is hazardous to the traveling public, or the employees of this utility, permission to continue such operation should be revoked, regardless of the

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expense which has been incurred by the utility in converting its cars for one-man car operation, and this utility should accept this permissive authorization with a definite understanding that the expense incurred will not be considered as an argument or evidence against a modification or an annulment of this order if it is found that one-man car operation is not satisfactory and is ordered discontinued. This utility's rules and regulations should be modified to meet the situation and the utility should report to the Commission at frequent intervals as to what means it is employing to enforce the regulations governing one-man car operation and the results therefrom. Men that are employed on one-man car operation should first be thoroughly examined, both as to their physical condition and as to their knowledge of the rules and regulations and should be reexamined at definite intervals. If one-man car operation is put into effect, the man in charge of the car should receive tickets and make change for passengers only when the car is standing.

The record shows that the company has already converted one of its cars for one-man operation at an expense of about $1,200. This expense covers the cost of providing dead-man control, sanders, safety doors and other incidental improvements.

The Petaluma and Santa Rosa Railroad Company's line on Sebastopol avenue crosses the main line track of the Northwestern Pacific Railroad Company at a point about 2000 feet south of the latter company's station, in the city of Santa Rosa. Trains on Northwestern Pacific line travel at speeds as high as 30 miles per hour over this crossing. At the present time it is the practice for applicant's trains to flag over the tracks of the Northwestern Pacific. The fact that the main line of the Northwestern Pacific is paralleled by a passing track on the west side and a side track on the east side, presents a condition which materially adds to the hazard of this crossing, as the view of the main line may be seriously impaired by cars standing on either or both of these side tracks near the crossing. If one-man car operation is to be put into effect on applicant's tracks, reasonable protection should be provided at this grade crossing. Such protection could be afforded by either human flagman or an appropriate form of an interlocking plant, to be approved by the Commission.

Petaluma and Santa Rosa Railroad Company's tracks on Fourth street in the city of Santa Rosa cross a branch line of the Southern Pacific Company in the north portion of the city. This track of Southern Pacific terminates at a point about one-half mile to the west of the crossing. The record shows that the speed of Southern Pacific trains over this crossing is restricted to six miles per hour and that but one passenger train each way and several freight trains are operated daily over it. At the present time trains on the electric line

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flag over the Southern Pacific track. In view of the slow movement of trains on the Southern Pacific line, it appears that applicant can operate its trains over this crossing with a reasonable degree of safety by coming to a stop before crossing the tracks and not proceeding thereover until after the motorman has ascertained that it is safe so to do by looking in both directions without leaving his car and restricting the maximum speed of trains on the Southern Pacific line to six miles per hour.

The record shows that it has been the practice of the Petaluma and Santa Rosa Railroad to illuminate the markers of its trains with electric lights, power for which is supplied from the trolley line. This means of lighting does not appear to be sufficiently dependable for such an important service and in the interest of safety this utility should provide oil burning lights for train markers so that these lights will not be affected by an interference with the electric current on the line or if the trolley is off the wire.

The following form of order is recommended:

ORDER.

The Petaluma and Santa Rosa Railroad Company, having made application to remodel its passenger equipment and thereafter put into effect one-man car operation, a public hearing having been held, and the matter having been duly submitted and now being ready for decision, therefore, basing an order on the record and foregoing opinion;

It is hereby ordered, that Petaluma and Santa Rosa Railroad Company be and it is hereby authorized to remodel its passenger equipment by installing thereon safety doors, dead-man control and other appropriate equipment and thereafter operate single passenger cars with one man as a trial proposition for a period of six months under the following conditions, viz:

(1) The rules of this utility shall be made appropriate for one-man car operation and shall be submitted to the Commission for approval before being made effective.

(2) Operators of one-man passenger cars shall be examined, both as to their physical condition and also as to their knowledge of the rules and regulations, before entering such service and reexamined at intervals not exceeding six months.

(3) Lights used as markers on all trains on the Petaluma and Santa Rosa Railroad Company shall be illuminated by oil or other dependable source of energy independent of trolly current.

(4) The operation of freight trains must be so restricted that they can, at all times, be stopped within range of the vision of the motorman.

(5) The maximum speed of freight trains must be reduced to

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twelve miles per hour around curves when the clear view is 1000 feet or less and eight miles per hour where the clear view is 500 feet or less.

(6) Convenient facilities for telephone communication by train operators with the train dispatcher must be provided at intervals not greater than 1000 feet around curves, where speed of freight trains is herein restricted.

(7) This utility shall file with the Commission monthly reports, showing what means have been taken to ascertain whether or not the safety rules for one-man car operation, as prescribed in this order, are being carried out by the operators of trains on this utility's system and the results of same.

It is hereby further ordered, that in the event one-man car operation for passenger service is put into effect on applicant's line, the grade crossings of the tracks of the Petaluma and Santa Rosa Railroad Company with the tracks of the Northwestern Pacific Railroad Company at Sebastopol avenue, and Southern Pacific Company at Fourth street near F street, in Santa Rosa, shall be protected as follows:

Crossing with Northwestern Pacific Railroad on Sebastopol Avenue:

Applicant may have the option of protecting this crossing either by means of an interlocking plant or by human flagmen. If it is determined to protect the crossing by means of an interlocking plant, such equipment shall be provided at the sole expense of applicant. The maintenance thereafter shall be borne fifty (50) per cent by applicant and fifty (50) per cent by Northwestern Pacific Railroad Company. Said interlocking plant shall be of a type and installed in accordance with plans and data to be approved by the Commission.

If applicant elects to protect this crossing by means of human flagmen, the entire expense of providing this protection shall be borne by applicant. The length of time that such human flagman is to remain on duty at this crossing shall be sufficient to flag all train movements on applicant's line over the tracks of the Northwestern Pacific Railroad Company.

Crossing with Southern Pacific Company on Fourth Street Near F Street:

All motors, trains and cars operating on applicant's track shall be brought to a full stop before crossing the Southern Pacific line and shall not pass over the crossing until motorman has ascertained, by looking in both directions, that it is safe so to do. The motorman shall make his inspection of the Southern Pacific line from the front end of his car and shall not be required to go on the ground at the crossing.

It is hereby further ordered, that the maximum speed of all trains, motors, engines and cars operated on Southern Pacific Company's tracks over the crossing with the Petaluma and Santa Rosa Railroad Company's line on Fourth street near F street, in the city of Santa Rosa, shall be reduced to six miles per hour.

It is hereby further ordered, that the authority herein granted shall remain in full force and effect for a period of six months from the date of this order, after which the Commission will, by subsequent order, extend this time or modify or annul the order as conditions appear to warrant.

The Commission reserves the right to make such further orders in this matter as to it may seem right and proper and to revoke its

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permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

The effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this twenty-ninth day of April, 1927.

DECISION No. 18310.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO INCREASE ITS RATES FOR THE SERVICE OF NATURAL GAS TO ITS CONSUMERS IN ITS SAN PEDRO DISTRICT, WHICH CONSISTS OF THE CITY OF SEAL BEACH, WILMINGTON, SAN PEDRO, AND CONTIGUOUS TERRITORY.

Application No. 12965.

Decided May 3, 1927.

RATES—GAS UTILITY—TO INCREASE.—Applicant granted temporary increase of gas rates to apply pending further hearing, and final decision.

Leroy M. Edwards, for Applicant.

Jess E. Stephens, City Attorney, *Milton Bryan*, and *J. L. Ronnow*, Deputy City Attorneys, for the City of Los Angeles.

WHITSELL, *Commissioner*.

OPINION.

On June 19, 1926, Southern Counties Gas Company filed its application asking the Railroad Commission of the State of California to make its order authorizing applicant to increase its rates for natural gas supplied to its consumers in the San Pedro district. On January 17, 1927, applicant filed a supplemental application asking the Commission to hold a preliminary hearing and to authorize temporarily increased rates pending final decision in the matter.

Southern Counties Gas Company of California operates extensive gas transmission and distribution facilities in southern California, the territory involved in the present proceeding being known as the Southern district (also known as San Pedro district) including the cities of San Pedro, Wilmington, Seal Beach and contiguous territory.

A public hearing was held in Los Angeles on March 1, 1927, at which time applicant through statement by counsel amended its application to exclude from consideration industrial rates.

Applicant submitted two exhibits which were explained by testimony and applicant's witnesses testified on past operations of the company,

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book investment, intangible capital, rate base, rate of return and related matters. A third exhibit, identified as applicant's Exhibit No. 3, was furnished at a subsequent date. This exhibit deals with natural gas transmission pipe line revenues and charges and method of allocation to the various districts of the system.

H. M. Kauffman, of the city of Los Angeles Board of Public Utilities and Transportation, submitted and explained an exhibit dealing with revenues, expenses and operating matters and the effect of mean annual temperature upon gas send-out. Cross examination of witnesses was deferred until future hearing.

Attorney for the city of Los Angeles argued that if the Commission determines applicant is entitled to an emergency rate in this particular district, such rate should be the minimum absolutely necessary and final determination of rates should be deferred until applicant's entire system and not a portion thereof is under consideration. Counsel for applicant stated that if reasonable temporary relief were granted applicant would not object to having such temporary rates remain in effect for a period of a year.

The matter before the Commission at the present time is therefore limited to a consideration of what relief, if any, should be granted applicant in the nature of increased rates to apply pending final determination of just and reasonable rates. No determination of reasonable rate base and necessary rate of return is now necessary.

The company's exhibits indicate that net return upon invested capital for the years 1924, 1925, and 1926, was 3.263 per cent, 1.933 per cent, and 2.631 per cent, respectively, this being exclusive of any consideration of intangible values. An investigation by the engineering department of the Commission, made subsequent to the hearing, indicates that the company's statement of past operations is substantially correct.

Based on operations during 1926, average domestic and commercial schedules must be increased from approximately 79 cents per 1000 cubic feet to approximately 98 cents per 1000 cubic feet to increase net return upon invested capital to 8 per cent per annum. The rates proposed by applicant in its supplemental application would have yielded slightly less than 8 per cent return during 1926.

If rates necessary to yield a similar return be calculated upon applicant's estimate for 1927, a materially greater increase is necessary.

This being a matter of temporary rates to apply pending final determination of reasonable rate schedules, I am not inclined to look favorably upon future estimates, which, in view of the limited time available, can not be adequately checked. Similarly, while there may be considerable merit in the arguments advanced by Mr. Kauffman, such matters should be reserved for consideration at a later date.

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The evidence before the Commission is sufficient to warrant applicant receiving a temporary increase pending final determination of reasonable rate schedules. The rates now enjoyed by domestic and commercial consumers in the Southern district are the lowest rates in the entire Los Angeles area, and are substantially lower than rates recently established for similar service by other utilities operating in the same general area.

Pending final decision in this matter the rates proposed by applicant should be placed in effect, and the order will so provide.

The following form of order is recommended:

ORDER.

Southern Counties Gas Company, having applied to the Railroad Commission of the State of California for an increase in its domestic and commercial rates for gas now being supplied by it in its Southern district, and there being sufficient evidence before the Commission to justify an increase pending the final decision in this matter;

It is hereby ordered, that:

(1) Southern Counties Gas Company of California be and it is hereby authorized to charge and collect, effective for all meter readings taken on and after the first day of June, 1927, the schedule of rates set forth in Exhibit "A," said exhibit being attached hereto and made a part hereof.

(2) Southern Counties Gas Company of California file with the Commission on or before May 31, 1927, the schedule of rates herein authorized.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of May, 1927.

EXHIBIT "A."

SCHEDULE No. 2-A.

(Superseding Schedules Nos. 2-A-L and 2-A-S.)

General Service.

Applicable to domestic and commercial service for lighting, heating and cooking.

Territory.

Applicable to southern district including San Pedro, Wilmington, Seal Beach and adjacent territory.

Rate.

First	4,000 cubic feet per meter per month	$0 98	per M cubic feet
Next	11,000 cubic feet per meter per month	85	per M cubic feet
Next	25,000 cubic feet per meter per month	78	per M cubic feet
All over	40,000 cubic feet per meter per month	72	per M cubic feet

Minimum Charge—

$0.85 per meter per month.

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DECISION NO. 18315.

IN THE MATTER OF THE APPLICATION OF FIDELITY WAREHOUSE CORPORATION, A CORPORATION, FOR AN ORDER APPROVING SALE OF ITS SECURITIES.

Application No. 13671.

Decided May 3, 1927.

SECURITIES—STOCK—TO ISSUE.—Application to issue $10,000 of common stock granted.

H. H. Reeves, for Applicant.

BY THE COMMISSION.

OPINION AND ORDER.

Fidelity Warehouse Corporation, organized under and by virtue of the laws of the State of California on August 31, 1925, asks permission to issue and sell at par 100 shares ($10,000 par value) of its common capital stock of the par value of $100 per share and use the proceeds for working capital.

The Fidelity Warehouse Corporation has been organized by the Pacific National Agricultural Credit Corporation. Its articles of incorporation authorize applicant, among other things:

> To acquire, build, construct, purchase, lease, sell, maintain and conduct warehouses for the receiving and storage of dried fruits of every kind, green fruits, grain, hay and crops of every kind, miscellaneous merchandise, goods, chattels and personal property of all kinds and descriptions, and to issue warehouse receipts for all such property received by it for storage, and to perform any and all acts connected with the receiving, storage and warehousing of any and all of the above kinds of property.

The company filed rates with the Commission on November 23, 1925. The storage rates now on file cover dried fruit, canned fruit and canned vegetables. It is of record that applicant is not holding itself out as being engaged in a general warehouse business. It is acting as a custodian warehouseman for banks and others who advance cash on warehouse receipts.

Though the company may be engaged primarily in custodian warehousing, it, according to the record, operates as a public utility. As such it may charge only the rates on file with the Commission.

A public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the $10,000 of stock, referred to in this application, is reasonably required by applicant, and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Fidelity Warehouse Corporation be and it is hereby authorized to issue at not less than par on or before September

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1, 1927, $10,000 par value of its common capital stock, and use the proceeds obtained from the sale of such stock for working capital.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof, and that applicant shall file a report, as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this third day of May, 1927.

DECISION No. 18329.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY TO AMEND ITEM 162, FIFTH REVISED PAGE NINE OF ITS TERMINAL TARIFF 35-J, C. R. C. No. 245.

Application No. 13506.

Decided May 6, 1927.

RATES—STEAM RAILROAD—SWITCHING CHARGES.—The Western Pacific Railroad Company authorized to amend item 162 of its Terminal Tariff 35-J, limiting the absorption of switching charges to traffic destined only to points competitive with the Southern Pacific Company, stated in the application.

James S. Moore, Jr., for Applicant.

BY THE COMMISSION.

OPINION.

This is an application filed by the Western Pacific Railroad Company seeking authority to amend item 162 of its Terminal Tariff 35-J, C. R. C. No. 245, providing for the absorption of switching charges on shipments of petroleum crude, gas, residuum and fuel oil originating at Valpico and destined to industry tracks or private sidings not reached by the Western Pacific Railroad, to read as follows:

> Upon carload shipments of petroleum crude oil, petroleum gas oil, petroleum oil residuum and fuel oil originating at Valpico, California, and destined industry tracks or private sidings located within switching limits of Southern Pacific Company at San Francisco, Oakland, San Jose, Stockton, Sacramento or Marysville, California, the Western Pacific Railroad Company will absorb Southern Pacific Company's charge for switching not to exceed $2.70 per car from its interchange track with this company. Subject to item 150 series.

The present tariff item reads:

> Upon carload shipment of petroleum crude oil, petroleum gas oil, petroleum oil residuum and fuel oil originating at Valpico, California, and destined industry tracks or private sidings not reached by the Western Pacific Railroad Company located within switching limits of connecting carrier, the Western Pacific Railroad Company will absorb connecting carrier's charge for switching not to exceed $2.70 per car from its interchange track with the Western Pacific Railroad Company. Subject to item 150 series.

Under the provisions of the present item the Western Pacific Railroad absorbs the switching charges of all connecting carriers regardless of the destination. The proposed amendment as set forth above would limit this absorption to traffic destined only to the points com-

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petitive with the Southern Pacific Company, namely, San Francisco, Oakland, San Jose, Stockton, Sacramento or Marysville.

A public hearing was held before Examiner Geary at San Francisco April 26, 1927, and the application having been duly submitted is now ready for an opinion and order.

Valpico is a station exclusively on the Western Pacific Railroad 5.7 miles west of Lyoth. At Valpico and Lyoth there are storage tanks and shipping facilities for the handling of petroleum and petroleum products, and for a number of years Lyoth and Valpico have been kept on a rate parity in so far as the line haul rates are concerned. Lyoth, however, is served by both the Southern Pacific and the Western Pacific railroads, and is a competitive point from a transportation standpoint as that term is defined in the terminal tariffs of carriers; hence on shipments originated by the Western Pacific Railroad and destined to industry tracks or private sidings on the Southern Pacific Company, the switching charge of $2.70 per car is absorbed under the general tariff provision. Valpico is practically the same station as Lyoth, but being served by the Western Pacific only, does not come within the meaning of the term "competitive traffic" as used in a carrier's terminal tariffs. The Western Pacific Railroad, effective September 30, 1925, endeavored to place Valpico on the same basis as Lyoth with respect to the absorption of switching charges of the Southern Pacific Company by the publication of Item 162 quoted above, but through a tariff publication error the item was inadvertently stated in such a manner as to broaden the absorption of the switching charges to include all points on the lines of connecting carriers; hence at the present time Valpico enjoys a greater privilege in so far as the absorption of switching is concerned than does Lyoth.

The record indicates that shippers at Valpico have notified applicant that under the circumstances they have no objection to the amendment proposed.

After consideration of all the facts of record we are of the opinion and find that applicant should be authorized to amend item 162 of its Terminal Tariff 35-J, C. R. C. 245, as set forth in the application, and that the application should be granted.

ORDER.

This application having been submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusion contained in the opinion which precedes this order;

It is hereby ordered, that applicant, the Western Pacific Railroad Company, be and it is hereby authorized to amend upon not less than fifteen days' notice to the Commission and to the public item 162, 5th

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revised page 9 of its Terminal Tariff 35-J, C. R. C. 245, as specifically set forth in the application.

Dated at San Francisco, California, this sixth day of May, 1927.

DECISION NO. 18332.

IN THE MATTER OF THE APPLICATION OF PACIFIC-SOUTHWEST WAREHOUSE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF STOCK BY SAID CORPORATION.

Application No. 13715.

Decided May 6, 1927.

SECURITIES—STOCK—TO ISSUE.—Applicant authorized to issue $40,000 par value of common capital stock, and to use the proceeds for various corporate purposes.

E. E. Bennett, for Applicant.

BY THE COMMISSION.

OPINION.

In this application the Pacific-Southwest Warehouse Company asks permission to issue and sell at not less than $80 per share net $40,000 (400 shares) of its common capital stock and use the proceeds to pay off indebtedness, acquire additional warehouse facilities and provide itself with a cash revolving fund.

By Decision No. 11953, dated April 24, 1923, in Application No. 8803 (Vol. 23, Opinions and Orders of the Railroad Commission of California, page 362), the Commission authorized the Pacific-Southwest Warehouse Company to issue $80,000 of stock and to assume the payment of not exceeding $111,000 of indebtedness in full payment for the properties and business of Southern California Warehouse and Distributing Company and to issue and sell at not less than 90 per cent of par value $50,000 of stock for the purpose of paying in part the indebtedness which the company was authorized to assume. It appears that pursuant to such decision the company issued the $80,000 of stock to which reference has been made, and sold $13,500 of stock and used the proceeds to pay indebtedness. During 1925 the holders of $50,000 of stock voluntarily surrendered such stock which was returned to the company's treasury. The stock which the company now asks permission to issue is part of the stock which was returned to it. Applicant asks permission to issue the $40,000 (400 shares) of stock and sell the same at a price to net it not less than $80 per share.

The testimony shows that the company is in need of additional funds. It is contemplating the establishment of a warehouse in San Francisco and possibly in Fresno. The company finds it necessary to make large freight advances on which it is required to pay interest at the rate of 1 per cent per month. It believes that if it is permitted to sell stock

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in order to provide itself with a revolving fund to meet such freight advances that it can effect a substantial saving in interest payments.

It is the intention of the company to use approximately $4,000 of the proceeds obtained from the sale of stock to pay indebtedness and $15,000 to provide itself with additional warehouse facilities. The remainder of the proceeds will be used for working capital or as a revolving fund.

ORDER.

Pacific-Southwest Warehouse Company having asked permission to issue $40,000 of its common capital stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that the Pacific-Southwest Warehouse Company be and it is hereby authorized to issue and sell at not less than $80 per share net, 400 shares ($40,000 par value) of its common capital stock, and use the proceeds to pay indebtedness, acquire additional warehouse facilities and provide itself with working capital, or a revolving fund, provided that applicant may not expend for the purpose of selling said stock an amount in excess of 20 per cent of the par value of the stock sold.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof, and that Pacific-Southwest Warehouse Company shall keep such record of the issue, sale and delivery of the stock herein authorized, as will enable it to file, on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this sixth day of May, 1927.

DECISION NO. 18337.

IN THE MATTER OF THE APPLICATION OF UNION PACIFIC STAGE COMPANY, A CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF CALIFORNIA, FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY AUTHORIZING IT TO OPERATE A MOTOR BUS SERVICE IN DEATH VALLEY, INYO COUNTY, CALIFORNIA.

Application No. 13474.

IN THE MATTER OF THE APPLICATION OF UNION PACIFIC STAGE COMPANY, A CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF CALIFORNIA, FOR AUTHORITY TO ISSUE AND SELL CERTAIN COMMON STOCK.

Application No. 13610.

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Decided May 9, 1927.

CERTIFICATE—AUTO STAGES—STOCK—TO ISSUE.—Union Pacific Stage Company granted certificate to operate auto stage service between Ryan and Furnace Creek and other points in Inyo County. Applicant also authorized to issue $3,000 of stock to finance its operations, but application to issue $10,000 of stock dismissed without prejudice.

Fred E. Pettit, Jr., for Applicant.
H. W. Eichbaum, for Mount Whitney-Death Valley Stage Line.

BY THE COMMISSION.

OPINION.

Applicant herein, Union Pacific Stage Company, a California corporation, seeks a certificate of public convenience and necessity authorizing the transportation of passengers and baggage between Ryan and Furnace Creek Inn and other points in Inyo County, thrice weekly as a seasonal service only, between October 1 and May 15, continuously; also to issue and sell $13,000 of the capital stock of the corporation to provide working capital.

A public hearing herein was conducted by Examiner Williams at Furnace Creek Inn, at which time the matter was duly submitted and now is ready for decision.

Applicant corporation is a subsidiary of the Los Angeles and Salt Lake Railroad Corporation, which is owned by the Union Pacific Railway System. The stage service for which applicant seeks a certificate is to be operated from Ryan, a terminus of the Death Valley Railroad, and is the ultimate and most important portion of a railroad side trip available to tourists and others in visiting the Death Valley region. According to the schedules proposed by applicant, passengers from the Union Pacific Railroad are transported over the Tonopah and Tidewater Railroad from Crucero to Death Valley Junction and from there to Ryan over the Death Valley Railroad. At Ryan the stage service will connect with the rail line and passengers are to be transported to Furnace Creek Inn and from there to divers points of interest, the termini of which are Dante's View, the Devil's Golf Course (a journey across the dry salt sea) and northwardly to Salt Creek Crossing. This entire trip is sponsored by the Union Pacific, and advertised by it throughout the United States and in other countries. It is to cost $42, leaving Crucero and returning thereto, plus Pullman fares, and of this amount $14.50 is allocated for the transportation service conducted by applicant herein. For the convenience of those not taking the entire trip, a schedule of rates (Exhibit "II") for each separate portion is filed with the application.

The time schedules, in detail, are shown in applicant's Exhibit "I" and provide for tours aggregating 117 miles, which, at the rate of $14.50 for the entire service, is on a rate base of 12½ cents a mile. This per

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mileage base is not unreasonable considering the unimproved and difficult roadways over which applicant is to operate—the life of tires being estimated at not more than 2000 miles. The "all-paid" tour price includes not only transportation by rail and stage but a night's lodging and four meals at Furnace Creek Inn, a modern hotel built for the convenience of tourists by the Pacific Coast Borax Company, conducting the principal industry in Death Valley and which has long been known for its historic "Twenty-mule-team" service, which, however, has long since yielded to the railroad and the truck.

According to the testimony of Fred E. Pettit, attorney for applicant corporation, the applicant desires not only to establish the service for the convenience of tourists and sightseers, but also to give local service within the valley, such service, however, to be limited to the period between October 1st and May 15th of contiguous years. According to the testimony of George R. Bierman, general passenger agent, Los Angeles and Salt Lake Railroad at Los Angeles, tickets for this tour are to be sold anywhere in the United States with coupons entitling the holder to the side trip leaving and returning to Crucero.

The side trip was inaugurated February 1, 1927, as a sightseeing service, although advertising was begun about January 1, 1927. Between February 1st and April 8th, the service had transported 72 passengers at the rates established. It was the opinion of Mr. Bierman that this patronage was satisfactory, considering the short period of advertising, and fully justified continuation of the trip. Alfred L. Riddle, who is superintendent of the stage operations, testified that the mileage in total of all vehicles to be operated by the applicant would be about 1000 monthly, and that the rate of wear and tear upon the equipment would be high, due to the rough character of the roads traversed. Mr. Riddle is an experienced operator, having been for two years in the service of the Utah Parks Company, conducting tours of Brice Canyon and Zion Park.

The service to be rendered by applicant herein is distinctly of benefit not only to the residents or others having business in Death Valley during the moderate seasons, but is of large educational value because of the routes it traverses and the remarkable geographic and mineral spectacles that it brings within easy contact to the public. The routes and schedules and the explanations made by the stage operators are enlightening as to the area in which the bizarre effects of the fusion of many volcanic actions are exposed with diversity and clarity rarely found.

The only opposition appearing to the granting of the application was presented by H. W. Eichbaum, who conducts a service from Los Angeles via Lone Pine into the north end of the valley to Stovepipe

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Wells. After hearing the testimony of applicant, Mr. Eichbaum withdrew his protest.

We believe the record presented entirely justifies the granting of the certificate applied for.

Applicant also seeks authority to issue and sell $13,000 of its capital stock of $50,000 for the purpose of providing working capital. An exhibit (No. 2) filed by applicant shows that its revenue between February 1, 1927, and March 31, 1927, inclusive, amounted to $1,044, and its gross expenses were $2,209. The expense did not include any amount for rental of the three vehicles used. It is estimated that these vehicles are worth $8,000, and the rental for their use is based upon 7 per cent of that amount, and this is the sole compensation paid for leasing, as applicant agrees to assume every other expense incident to the operation. It is explained by applicant that it is not expected that this operation will prove self-sustaining for two or three seasons, and that the money used for working capital is necessary for advance payments and to absorb losses; it is further explained that while the business is presumably on a cash basis, the cash itself is not received for a long period after the tickets are honored, due to the fact that they are sold anywhere in the United States or Canada and considerable time is required for the actual money to pass into possession of applicant. Applicant is a subsidiary of the Union Pacific Railway Company. Another subsidiary is the Utah Parks Company, operating similar service in Utah. Because of the seasonal operation of both companies, the equipment is used in Utah in the summer time and is available for California in the winter time; hence the leasing arrangement. It is further explained that the Union Pacific Railway Company desires to keep the Death Valley operation of applicant separate from its other business, and to facilitate this has subscribed for $12,500 of the proposed issue and expects to contribute this amount to the support of the operation and to provide it with ample capital, thus avoiding necessity of loans for temporary use.

Section 6 of the Auto Stage and Truck Transportation Act reads in part as follows:

> No transportation company may issue any stock or stock certificate, or any bond, or any note or other evidence of indebtedness payable at a period of more than twelve months after the date thereof, unless such transportation company, in addition to the other requirements of the law, shall first have secured from the Railroad Commission an order authorizing such issue and stating the amount thereof, and the purpose or purposes to which the issue or the proceeds thereof are to be applied and that, in the opinion of the Railroad Commission, the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that, except as otherwise permitted in the order in the case of bonds, notes and other evidences of indebtedness, such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

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It appears that applicant in this instance is asking permission to issue some stock to cover losses which represent charges that should be included in operating expenses. We do not believe that the Commission is authorized by the Auto Stage and Truck Transportation Act to permit the issue of stock for such purpose. We realize that applicant should be provided with some working capital and are willing to allow it to issue for that purpose $3,000 of stock. If applicant can not conduct its operations with that amount of working capital, it should obtain such additional funds as it may need from some source other than the issue of stock.

ORDER.

Union Pacific Stage Company, a corporation, having made application to the Railroad Commission for a certificate of public convenience and necessity to establish automobile stage service for the transportation of passengers and baggage between Ryan and Furnace Creek and other points in Inyo County, a public hearing having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the establishment by applicant of the service as proposed herein along the following route:

From Ryan to Dante's View, Travertine Springs, Furnace Creek Inn, Furnace Creek Ranch, Harmony Borax Works, Salt Creek Crossing and Devil's Golf Course, over main county roads; and

It is hereby ordered, that a certificate of public convenience and necessity therefor be and the same is hereby granted, subject to the following conditions:

I. Applicant shall file with this Commission, within twenty days from date hereof, its written acceptance of the certificate herein granted.

II. Applicant shall file, in duplicate, time schedules and tariff of rates within a period of not to exceed thirty days from date hereof, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of the service herein authorized within a period of not to exceed sixty days from date hereof.

III. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

IV. No vehicle may be operated by applicant under the authority herein granted unless such vehicle is owned or is leased by it under a

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contract or agreement on a basis satisfactory to the Railroad Commission.

Union Pacific Stage Company, a corporation, having made application to the Railroad Commission for authority to issue and sell $13,000 of stock, and the Railroad Commission being of the opinion that the company should be permitted to issue $3,000 of stock; that the money, property or labor to be procured or paid for by the issue of such common stock is reasonably required by applicant and that the expenditures herein authorized are not in whole, or in part, reasonably chargeable to operating expenses or to income; and that this application, in so far as it involves the issue of $10,000 of stock, should be dismissed without prejudice.

It is hereby further ordered, that Union Pacific Stage Company, a corporation, may issue and sell on or before October 1, 1927, $3,000 of its capital stock at not less than par and use the proceeds as working capital.

It is hereby further ordered, that Union Pacific Stage Company, a corporation, shall keep such record of the issue, sale and delivery of the stock herein authorized, and the disposition of the proceeds, as will enable it to file on or before the twenty-fifth day of each month a verified report as required by Railroad Commission General Order No. 24, which order, in so far as applicable, is made a part of this order; and that

The authority herein granted will become effective within twenty days subsequent to the date hereof.

It is hereby further ordered, that this application, in so far as it involves the issue of $10,000 of stock, be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this ninth day of May, 1927.

DECISION NO. 18341.

IN THE MATTER OF THE APPLICATION OF JOHN BYRNE, AGENT FOR McCORMICK STEAMSHIP COMPANY AND NELSON STEAMSHIP COMPANY, FOR AN ORDER AUTHORIZING PERMISSION TO CANCEL CERTAIN RATES SHOWN IN PACIFIC COASTWISE FREIGHT TARIFF BUREAU TARIFF No. 1, C. R. C. No. 1.

Application No. 13542.

Decided May 13, 1927.

RATES—CARRIER BY WATER—TO CANCEL.—Applicant authorized to cancel rates for so-called "Red Ball" service, or Basis No. 2 rates, and to substitute Basis No. 1 rates.

Hugh Gordon, for Applicant.

BY THE COMMISSION.

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OPINION.

This is an application by John Byrne, agent for and on behalf of McCormick Steamship Company and Nelson Steamship Company, hereinafter referred to as McCormick Company and Nelson Company, under section 63 of the Public Utilities Act for permission to cancel from Pacific Coastwise Freight Tariff Bureau Tariff No. 1, C. R. C. No. 1, certain class and commodity rates described in the tariff as Basis No. 2 rates.

The applicable rates after cancellation of these rates will be Basis No. 1 rates published in the same tariff.

Basis No. 2 rates apply only via Nelson Company and certain steamers operated by the McCormick Company, and the Basis No. 1 rates apply via all steamers operated by the Los Angeles Steamship Company, Pacific Steamship Company and the steamships *Rose City* and *Newport* operated by the McCormick Company.

A public hearing was held before Examiner Geary at Los Angeles April 20, 1927, and the matter having been duly submitted is now ready for our opinion and order.

Rates will be stated in cents per 100 pounds.

The rates sought to be canceled were published effective December 1, 1926, and apply between San Francisco, Oakland, Berkeley and Alameda on the one hand, and on the other, Los Angeles, Long Beach, Wilmington, San Pedro and San Diego, also between Wilmington and San Diego. They are lower in most instances to the port points than to the city of Los Angeles, and reference will be made only to the Los Angeles rates. The class rates between San Francisco and Los Angeles are as follows:

Basis No.	1	2	3	4	5	A	B	C	D	E
1	80	65	57	50	32	36	36	32	32	29
2	78	63	55	48	30½	34½	34½	30½	30½	27½

The difference between the Basis 1 and 2 rates averages between 1 and 1½ cents per 100 pounds, and the most important articles moving under commodity rates are:

Canned goods 26½ cents and 25 cents, cereal and cereal products 26½ cents and 25½ cents, flour 30 cents and 29 cents, dried fruit 28 cents and 27 cents, iron and steel articles 22 cents and 21 cents, lard 23½ cents and 22 cents.

There is no differential in the rates on such articles as:

Cotton piece goods, envelopes, grain, printing ink, lard, caustic soda, vegetables, liquid gas, etc.

Applicants stipulated at the hearing that the records in Application No. 13086, Decision No. 17506, should be made a part of this proceeding. In that application, decided October 21, 1926, the steamship com-

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panies operating between northern and southern California points were authorized to readjust rates, rules and regulations and consolidate the rates, rules and regulations formerly published by each line in individual tariffs in a joint tariff designated as Pacific Coastwise Freight Tariff Bureau Tariff C. R. C. No. 1, referred to in this proceeding as the master tariff. The evidence indicated that the steamship lines suffered severe losses for a considerable period of time prior to the filing of the application. The McCormick Company submitted an exhibit showing that its loss for the first five months of the year 1926 was $17,066.77.

Particular attention is called by applicant to the fact that the reason for establishing the Basis No. 2 line of rates was that at the time of filing Application No. 13086 the McCormick and Nelson companies were giving a slow and infrequent service as compared with the lines operating under the Basis No. 1 rates via the combination passenger and freight steamers furnishing a faster and more frequent service. During the past two months applicants' service has been augmented by additional steamers, the McCormick Company now having three sailings per week and the Nelson Company two, as compared with the former service of two and one sailing weekly.

Witness for applicant McCormick Company testified that it had proved impracticable to maintain the differences in rates with the steamers operating on substantially the same schedules. Furthermore, it is confusing to shippers when consignments are delivered with intent to have them loaded on a steamer having the Basis No. 2 rates, and because the name of the steamer is not shown on the bill of lading, forwarded on the first available steamer, and the rate applicable by that particular steamer assessed.

Exhibits showing tonnage handled on Basis No. 2 rates, together with estimated increase in revenue if handled on Basis No. 1 rates were submitted subsequent to the hearing. McCormick Company for the period from December 1, 1926, to March 31, 1927, handled 10,496.4 tons, and the Nelson Company 15,001.4 tons during the period from January 1 to March 31, 1927.

There appears no reason why there should be two schedules of rates for practically the same service. The proposed adjustment will place all steamship companies parties to Pacific Coastwise Freight Tariff Bureau on an equality in so far as rates are concerned. A careful study of the exhibits and testimony in connection with Application No. 13086 and those presented in this proceeding indicates that Basis No. 1 rates are not unreasonable.

The cancellation of the rates sought will no doubt cause a loss of some traffic to the competing lines, therefore it is not possible to estimate

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the amount of operating revenue applicants will receive after the cancellation of Basis No. 2 rates.

There were no appearances in opposition although notice of the hearing was mailed to chambers of commerce and many other organizations and shippers at San Francisco, Oakland, Long Beach and Los Angeles. Witness for applicants stated that the proposed cancellation had been discussed with many large shippers and no objections were offered.

Upon all the facts of record we are of the opinion and find that the applicants should be permitted to cancel the rates as set forth in the application, and that the application should be granted.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which is hereby referred to and made a part hereof;

It is hereby ordered, that the application of John Byrne, agent for McCormick Steamship Company and Nelson Steamship Company, be and the same is hereby granted, and applicant is hereby authorized to cancel Basis No. 2 rates as set forth in the application and published in Pacific Coastwise Freight Tariff Bureau Tariff No. 1, C. R. C. No. 1.

Dated at San Francisco, California, this thirteenth day of May, 1927.

DECISION NO. 18345.

ALBERS BROS. MILLING COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 2311.

Decided May 13, 1927.

RATES—STEAM RAILROAD—FEEDSTUFF—RECONSIGNMENT CHARGE.—The Commission holds that the record is insufficient to base a finding as to whether the reconsignment rule is just or unjust, but holds that in this instance the collection of the charge is unreasonable, and orders its return to the shipper.

C. S. Connolly, for Complainant.
Jas. E. Lyons, C. N. Bell and *F. W. Mielke*, for Defendant.

BY THE COMMISSION.

OPINION.

Complainant, a corporation with its principal place of business at San Francisco, is engaged in buying, selling and manufacturing grain and grain products. By complaint filed January 21, 1927, it is alleged that a reconsignment charge of $5.85, assessed and collected against car S. P. 28141 loaded with feedstuffs transported during the month

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of October, 1925, from Oakland to Caruthers and subsequently forwarded from the latter point to Fresno, was unjust and unreasonable and in violation of section 13 of the Public Utilities Act.

Reparation and an order requiring defendant to cease and desist from assessing and collecting the aforementioned reconsignment charge are sought.

A public hearing was held before Examiner Geary at San Francisco April 25, 1927, and the case having been duly submitted is now ready for an opinion and order.

The shipment in question was prepaid and forwarded by complainant from its plant at Oakland, consigned to Rhodes and Sons at Caruthers and placed on the team track at the latter point, to be unloaded. Through some misunderstanding the consignee refused to accept the shipment, and upon instructions from complainant's representative at Fresno consignee notified the agent at Caruthers to forward the car to Fresno. Freight charges were assessed and collected upon the basis of the local freight rate from Oakland to Caruthers plus the local from Caruthers to Fresno, and in addition a reconsignment charge of $5.85 was assessed and collected. The latter charge was made in accordance with Rule 12 of the "Rules and Charges Covering the Diversion and Reconsignment of Carload Freight" as published in Southern Pacific Company Terminal Tariff 230-I, C. R. C. 2826. This rule provides in substance that a car placed for unloading at the original billed destination and reforwarded therefrom without being unloaded to a point outside of the switching limits, will be subject to the published rates to and from the point of reconsignment, plus $5.85 per car reconsignment charge. There is however an exception to this rule in the same tariff which provides as follows:

> Where all charges have been paid to or at original destination and delivery accepted, and a new bill of lading (not an exchange bill of lading) issued to a new destination on basis of local (not proportional, reshipping or transshipping) rate from the reforwarding point and without any carrier or agent of the carrier acting for the shipper, the transaction will not be considered as a diversion or reconsignment, and no diversion or reconsignment charge will be assessed.

Thus, if the consignee had temporarily taken delivery of the car and had instructed defendant's agent at Caruthers to issue a new bill of lading to cover the journey to Fresno, the shipment would have been considered within the purview of the exception quoted above, and no charge in addition to the combination of locals would have been assessed.

Complainant contends that it was no more of a burden to the carrier to have the agent at Caruthers reconsign this car than it was to issue a new bill of lading, and therefore the reconsignment charge was unjust and unreasonable. Complainant does not question the reasonableness of the applicable line haul rates.

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Defendant on the other hand contends that the charge of $5.85 per car assessed on shipments reconsigned or diverted is for the purpose of compensating carriers for the work necessary to be performed in connection with such shipments. In support of this contention a witness testified as to the number of letters, telegrams and the detailed clerical work necessary to effect the diversion and reconsignment of various shipments, which are all claimed to be handled through defendant's general freight offices. It appears, however, from the record that the work referred to is mainly in connection with the diversion or reconsignment of carload shipments before reaching original billed destination and does not apply to shipments such as here considered. In fact, it is of record that the reconsignment of this particular shipment was handled entirely by the agent at Caruthers without any more detailed clerical work than would have been necessary had a new bill of lading been issued for the movement from Caruthers to Fresno.

After careful consideration of all the facts of record we are of the opinion and find that the reconsignment charge of $5.85 assessed and collected by defendant against the car in question was unjust and unreasonable. We further find that the complainant paid and bore the charge in question, has been damaged thereby, and is entitled to reparation in the sum of $5.85, with interest.

The rule in effect is general in application, applying to all kinds of movements, and this record is insufficient to warrant a finding, that it is *per se* either unjust or unreasonable.

ORDER.

This case being at issue upon complaint, and answer on file, full investigation of the matters and things involved having been had, and basing its order on the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund to complainant, Albers Brothers Milling Company, the sum of $5.85, with interest, account unreasonable reconsignment charge assessed and collected against car S. P. 28141 loaded with feedstuff moving during the month of October, 1925, from Oakland to Caruthers and subsequently reforwarded to Fresno.

Dated at San Francisco, California, this thirteenth day of May, 1927.

DECISION NO. 18355.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR AN ORDER GRANTING PERMISSION TO INCREASE PASSENGER RATES AND FARES BETWEEN POINTS IN THE STATE OF CALIFORNIA.

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Application No. 13460.
Decided May 14, 1927.

RATES—ELECTRIC RAILWAY—TO AMEND.—Pacific Electric Railway Company authorized to amend certain experimental rates on its Los Angeles-Glendale line to eliminate objections of patrons, upon agreement of all principals.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Upon further consideration of the record in the above entitled proceeding and of the petitions filed by the applicant subsequent to the hearing held on April 5, 1927, and based upon an agreement reached at a conference held at Los Angeles May 11, 1927, with applicant, counsel for protestants, and other interested parties;

It is hereby ordered, that applicant, Pacific Electric Railway Company, be and it is hereby authorized to amend, on one day's notice to the Commission and to the public, Local Passenger Tariff No. 880, C. R. C. No. 1865, as follows:

1. Publish between Los Angeles and Cypress street a 30-ride family commutation fare of $3.25.

2. Reduce the present 30-ride family commutation fare between Los Angeles and North Glendale from $4.80 to $4.50.

3. Publish between Los Angeles and Pacific avenue a 30-ride family commutation fare of $4.50.

4. Publish between Los Angeles and Allen avenue a one-way fare of 20 cents, round-trip fare 35 cents, and 30-ride family commutation fare of $4.80; between India street and Allen avenue a one-way fare of 15 cents, round trip fare 25 cents, and 30-ride family commutation fare $3.60; between Richardson and Allen avenue a one-way fare of 10 cents; between Glendale (East Broadway) and Allen avenue a one-way fare of 10 cents; and between Arden avenue and Allen avenue a one-way fare of 6 cents.

5. Publish between Cypress street and North Glendale and between Cypress street and Hahne a one-way fare of 6 cents.

6. Eliminate from the tariff all one-way, round-trip, 30-ride and 60-ride fares now published between Los Angeles, India street, Richardson, Glendale (Broadway) and Glendale (East Broadway) on the one hand and on the other Senorita, and between Los Angeles and Western avenue.

It is hereby further ordered, that the Commission's order entered in the above entitled proceeding on April 12, 1927 (Decision No. 18219), shall in all other respects remain in full force and effect.

Dated at San Francisco, California, this fourteenth day of May, 1927.

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DECISION NO. 18368.

IN THE MATTER OF THE APPLICATION OF NAPA VALLEY TRANSIT COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTOMOTIVE STAGE SERVICE BETWEEN SAN FRANCISCO AND NAPA AND INTERMEDIATE POINTS.

Application No. 11029.

Decided May 17, 1927.

CERTIFICATE—AUTO STAGES—TO OPERATE.—Application denied.

Chas. A. Beck, for Applicants.
A. T. Hatch, for Monticello Steamship Company, Protestant.
J. J. Deuel, for California Farm Bureau Federation.
Edward Stern, for American Railway Express Company, Protestant.
H. W. Hobbs and *C. E. Peterson*, for Southern Pacific Company, Protestant.
Earl A. Bagby, for California Transit Company, Protestant.
R. W. Palmer and *W. J. Cummings*, for Northwestern Pacific Railroad Company, Protestant.
Devlin and Brookman, by *Douglas Brookman*, for Pacific Auto Stages, Protestant.
John Coleman, for Napa Chamber of Commerce.
A. Walter Allen, for San Rafael-Sonoma Valley Auto Stage Line, Protestant.
R. T. McGlynn, for certain protesting petitioners of Sonoma Valley.
Wallace Weir, for Santa Rosa-Petaluma-Sausalito Stage Line, Protestant.
John T. York, for San Francisco, Napa and Calistoga Railway.
A. T. Haskell, for Town of St. Helena, and St. Helena Chamber of Commerce.

BY THE COMMISSION.

OPINION.

E. H. Mount and Harold H. Haddon, copartners doing business under the fictitious name and style of Napa Valley Transit Company, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile stage line as a common carrier of passengers and express between San Francisco, Sausalito, San Rafael, Ignacio and intermediate points on the one hand and Black Point, Sears Point, Shellville, Napa and intermediate points on the other hand.

Public hearings on this application were conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

Applicants propose to charge rates in accordance with a schedule marked Exhibit "A" as attached to and forming a part of the application herein; to operate on a schedule of four round trips daily, serving the intermediate points of Sausalito, Corte Madera, Larkspur, Kentfield, San Anselmo, San Rafael, Ignacio, Black Point, Sears Point, Shellville, and Carneros; using as equipment three safety bus type stages, each of 20-passenger capacity.

Applicants rely as justification for the granting of the requested certificate upon the following alleged facts: (1) that there is an insistent public demand for the establishment of common carrier serv-

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ice by automobile over the route herein sought; (2) that applicants do not allege a necessity for the proposed service between San Francisco, Sausalito and San Rafael nor request a certificate authorizing such local service, but it is alleged that a public need exists for the establishment of a through service to carry passengers between San Francisco, San Rafael and Ignacio on the one hand and Black Point, Napa and intermediate points on the other hand; (3) and that no existing authorized carriers render service between the points proposed to be served, except by an indirect and joint service.

Emery H. Mount, one of the copartners, testified regarding his investigation in San Francisco, Sausalito, San Rafael, San Anselmo, Napa and points along the route, from which he had concluded the inauguration of the service would be a profitable venture. The express service would be needed principally for the transportation of automobile parts and supplies. Witness stated that it was the intention, if a certificate were to be granted, to form a corporation, said corporation to acquire the operative right. No stock is to be sold to the public, it being the intention to use the stock as collateral to secure notes which are to be issued in connection with the purchase of equipment.

John Simpson, employed as a ticket clerk at the Union Stage Depot, Fifth and Mission streets, San Francisco, testified he had received three or four verbal requests and six to eight telephone inquiries daily for stage service to Napa and intermediate points which would be served by the proposed line; and that requests for express service to Napa had also been received.

L. E. Ferguson, employed as relief agent at the Union Stage Depot, Fifth and Mission streets, San Francisco, and formerly agent at Vallejo for California Transit Company, testified regarding his receipt of from three to five inquiries daily for transportation to Napa and intermediate points during the days he was on relief duty; that in his former employment at Vallejo inquiries were often received, particularly from commercial travelers, regarding service between Napa and Marin County points.

M. C. Brockway, employed as traffic director for Peninsula Rapid Transit Co., at the Union Stage Depot, Fifth and Mission streets, San Francisco, testified as to receiving two or three telephone inquiries weekly, and two or three personal requests daily for passenger service to Napa and intermediate points, but did not recall any requests for parcel or express service.

Jack D. Prince, a ticket agent for sightseeing tours, located at 44 Fourth street, San Francisco, also testified as to inquiries received by him for stage service to Napa direct from San Francisco and by stipulation it was agreed that the testimony of W. H. Shackelford, employed

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as ticket agent at the Union Stage Depot, San Francisco, would be the same as that of other witnesses employed at such station.

R. L. Huntley, a salesman for the Marin County Motor Company, residing at San Rafael; Caesar Rodoni, a resident of San Francisco and owning property at Black Point; B. L. Washburn, a resident of San Rafael; J. W. P. Glascom, a traveling salesman residing at Napa; S. G. Lisher, a furniture dealer in Napa; Frank G. Johnson, in the garage and automobile business at Napa; R. D. Bergin, residing at San Anselmo; H. Ford, T. F. Tanford, C. R. Potter and P. M. McGuire, residing at Shellville on the Black Point cut-off; W. J. Dwyer, residing at Agnew, and making weekly trips, San Francisco to Napa; and Miss Fern Dimfel, residing at San Francisco, testified in behalf of applicants, stating that they would use the proposed service if same were to be authorized, each having objection to the existing authorized transportation facilities and believing the proposed service to offer a more convenient and expeditious method of transportation for their respective needs.

George A. Kupman, in the automobile parts business at San Francisco, testified that he forwarded merchandise to points located on the proposed route, and would utilize the service of applicants for the transportation of packages.

W. A. Vreeland, residing at Napa, and one of the proprietors of the Connor Hotel in that city, testified as to inquiries received at his hotel for transportation to Marin County points, particularly from eastern traveling salesmen on their spring and fall trips into the Napa territory. Witness receives some express shipments from San Francisco but the bulk of his shipping requirements are cared for by freight or parcel post service.

Frederick Rhodes, proprietor of the Hotel Brown at Napa, testified he had used his private automobile to transport passengers from Napa to Shellville and to Marin County points; that he received frequent inquiries at his hotel for information as to methods of transportation to Marin County points and had, during the previous six months, transported in his own conveyance and without charge 12 to 15 people from Napa to San Rafael, some of whom were destined to San Francisco. It appeared, however, that in the majority of instances the trips were made during the evening hours, and as the last schedule proposed by applicants leaves Napa at 6.15 p.m., no accommodation would be offered such prospective patronage.

The granting of the application is protested by Monticello Steamship Company, American Railway Express Company, Southern Pacific Company, California Transit Company, San Rafael-Sonoma Valley Auto Stage Line, San Francisco, Napa and Calistoga Railway, Pacific Auto

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Stages, Northwestern Pacific Railroad Company, St. Helena Chamber of Commerce, and other individuals of the communities proposed to be served.

The protesting carriers, rail, stage and steamship, contend that the existing transportation service adequately serves the communities sought to be served by the proposed stage line, and that the facilities of existing lines are sufficient to properly care for the public needs: that no new business will be created by the establishment of the proposed service but that traffic now being handled by existing carriers will be diverted from present routes. Exhibits were filed showing existing routes, rates and service available. From these exhibits it appears that for the through business between San Francisco and Napa, there are now available, by the combined schedules of existing carriers, 16 round trips daily.

G. H. T. Jackson, president of Napa Soda Company, residing in San Francisco, testified the combined service of the Monticello Steamship Co., and San Francisco, Napa and Calistoga Railway between San Francisco and Napa was satisfactory and adequate. This witness uses his own automobile for his trips between Napa and Marin County points and would use the proposed stage service, if authorized, if his automobile were not available.

John M. Mount, in the real estate and insurance business at Napa, testified as to his satisfaction with the existing service between Napa and San Francisco, but was not satisfied with the circuitous service now available between Napa and Marin County points.

D. L. Beard, an attorney in San Francisco and residing at Napa, testified that the normal service conditions were satisfactory as regards his trips between San Francisco and Napa via the Monticello Steamship Company and the San Francisco, Napa and Calistoga Railway. This witness would use the proposed stage service between Napa and San Rafael, although stating that his trips between such points were infrequent.

W. E. Nelson, a resident of Anglyn, president of Pacific Union College, an institution with 400 students, and a member of the board of trustees of St. Helena Sanitarium, an institution with 200 patients and attendants, described the transportation available in Napa Valley and expressed his satisfaction with the facilities afforded by the electric line of the San Francisco, Napa and Calistoga Railway and its connections, believing that there was no necessity for the establishment of the proposed stage line.

F. A. Randall, residing at Napa and president of Napa County Farm Bureau, an organization having 500 members, testified that the farmers of Napa Valley were principally interested in the continued

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maintenance of the present freight and express facilities as afforded by the existing carriers, and that the service now available was satisfactory. Similar satisfaction with existing service was stated by H. D. Williamson, a resident of Napa and vice president of the Napa County Farm Bureau; Henry Brown, president of the Bank of Napa; J. D. Cochrane, manager of a finance company and president of the Napa Chamber of Commerce; J. E. Beard, manager of Winship-Beard Company, a large department store at Napa; Albert G. Haskell, orchardist at St. Helena and president of the St. Helena Chamber of Commerce; F. M. Burris, manager of the branch bank of Mercantile Trust Company at Sonoma; H. F. Bates, merchant of Sonoma; O. H. Brandt and R. L. Watt, farmers residing at Shellville; F. B. Makinder, editor of St. Helena Star; and by stipulation Roy Laveria, president of Calistoga Chamber of Commerce; Lee Boggs; A. H. Smith, William Thompson and Fred Williams.

A questionnaire was mailed by the directors of the chamber of commerce of Napa to its members requesting an expression as to the necessity for the proposed service and the responses received registered 17 in favor and 89 against the establishment of the line.

A petition signed by 192 residents of Shellville, Black Point, Sears Point, San Rafael, Ignacio and points along the proposed route was filed as an exhibit, said petition endorsing the service of the protestant San Rafael-Sonoma Valley Auto Stage Line and protesting the granting of the application. The petition alleges that the present service is satisfactory; that the granting of the application would interfere with the satisfactory service now rendered by the existing stage line; and that there is no need or necessity for the establishment of the proposed line.

Counsel for protestants directed attention to the alleged inadequate showing as to the financial ability of applicants to undertake the proposed service in the event a certificate should be granted, and that the real parties in interest were not before the Commission seeking the certificate. The record shows from the testimony of Applicant Mount, that the partnership now has available $2,000 in cash and can secure additional funds. Applicant Haddon testified as to his possession of $1,000 to be contributed as his portion of the partnership funds; that he expected to give a joint note with Applicant Mount for any funds which were to be borrowed, and that he expected to pay his proportion of the note if the business venture proved unsuccessful. Albert R. Smith of Campbell testified as to his willingness to aid applicants to the extent of $10,000 and to accept stock in the proposed company for such amount. Mrs. R. J. Aylward, residing at Agnews State Hospital, testified that she would aid in the financing of the proposed venture to the extent of $23,000, proposing to advance funds only in the event

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that the certificate be granted, although expecting no personal interest in the business. An agreement dated June 15, 1925, was introduced as an exhibit by the terms of which applicants agree with Albert Smith, Richard J. and Ora Aylward to immediately form a corporation to take over and thereafter operate the proposed stage line in the event a certificate should be granted, to secure the authorization of this Commission for the issue of stock, and to prorate such stock in accordance with the actual cash advanced by each of the parties to the agreement. From the record herein it is apparent that the operation of the stage line, if certificate were to be granted, would be conducted by a corporation proposed to be formed for the purpose of financing and operating such service.

We have given careful consideration to all the evidence and exhibits in this proceeding.

It appears that a direct service between Napa and San Rafael would be advantageous to a limited number of passengers, particularly those residing in the sparsely settled territory between Napa and Ignacio. The volume of travel is negligible and the prospective users of such a service are limited in number, and the successful operation of the proposed line, both for the public and for the applicants, could only be made possible, under the record herein, by the securing of authority to handle the through business between Napa and Marin County points and San Francisco. The granting of a certificate as applied for would result in the diversion of traffic from the routes of established authorized carriers and the record shows the service of such protesting carriers to be satisfactory to and reasonably adequate for the communities served. No showing was made herein which would justify the establishment of an express or parcel service over the route herein sought. We therefore conclude and hereby find as a fact that the proposed passenger and express service is not required by the public convenience and necessity. The application will, therefore, be denied.

ORDER.

Public hearings having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusion and finding of fact as appearing in the opinion which precedes this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the operation by E. H. Mount and Harold H. Haddon, copartners, doing business under the fictitious name and style of Napa Valley Transit Company, of an automobile stage line as a common carrier of passengers and express between San Francisco, Sausalito, San Rafael, Ignacio and

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intermediate points on the one hand and Black Point, Sears Point, Shellville, Napa and intermediate points on the other hand; and

It is hereby ordered, that this application be and the same hereby is denied.

Dated at San Francisco, California, this seventeenth day of May, 1927.

DECISION NO. 18372.

IN THE MATTER OF THE APPLICATION OF NOVATO UTILITIES COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE STOCK.

Application No. 13609.

Decided May 17, 1927.

SECURITIES—STOCK—TO ISSUE.—Applicant authorized to issue $30,000 of common stock to reimburse its treasury on account of surplus earnings invested in its properties, and to distribute the same to its stockholders as a stock dividend.

Thos. P. Boyd, for Applicant.

BY THE COMMISSION.

OPINION.

In the above entitled proceeding Novato Utilities Company asks the Railroad Commission to make an order authorizing it to issue 3000 shares of its capital stock, of the aggregate par value of $30,000, to its stockholders as a stock dividend.

Novato Utilities Company is engaged in the business of supplying electricity for light, heat and power purposes and water for domestic purposes and of giving local telephone service in and about the township of Novato, Marin County. In addition toll telephone service is furnished its subscribers over the lines of The Pacific Telephone and Telegraph Company through connections made at San Rafael.

It appears that the applicant corporation was organized on or about February 10, 1916, with an authorized capital stock of $50,000, divided into 5000 shares of the par value of $10 each, all common. Heretofore, by Decision No. 4358, dated May 29, 1917 (Vol. 13, Opinions and Orders of the Railroad Commission of California, page 301), the corporation was authorized by the Commission to issue $20,000 of its capital stock in payment for electric, telephone and water public utility properties located at Novato and then owned by J. W. Cain and Albert Cain. This stock, it appears, was issued and is now outstanding.

In making the request to issue the remaining authorized stock applicant reports its unappropriated surplus, as of February 28, 1927, at $31,553.72 which is said to have been invested in the properties and assets of the company. It reports its assets and liabilities, as of February 28, 1927, as follows:

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Assets.

Fixed capital —		
Electric	$64,731 64	
Telephone	14,909 40	
Water	20,847 50	
		$100,488 54
Cash		2,320 64
Accounts receivable		3,624 81
Materials and supplies		2,700 25
Depreciation fund		7,605 14
Total assets		$116,799 38

Liabilities.

Capital stock	$20,000 00
Premium on stock	2,954 14
Bills payable	21,000 00
Accounts payable	4,497 76
Consumers' advances	4,938 42
Interest accrued	105 00
Reserve for depreciation	24,085 20
Appropriated surplus	7,605 14
Unappropriated surplus	31,553 72
Total liabilities	$116,799 38

We have given consideration to this application and to applicant's financial condition and are of the opinion that applicant should be authorized to issue $30,000 of stock to reimburse its treasury on account of surplus earning invested in its properties and assets. After such reimbursement applicant may distribute the stock to its present stockholders as a dividend.

ORDER.

Novato Utilities Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant for the purposes specified herein, and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income;

It is hereby ordered, that Novato Utilities Company be and it is hereby authorized to issue $30,000 of its common capital stock, at par, for the purpose of reimbursing its treasury because of surplus earnings invested in its properties and assets up to February 28, 1927, and thereafter to distribute such stock to its stockholders as a stock dividend.

It is hereby further ordered, that applicant shall keep such record of the issue of the stock herein authorized as will enable it to file, within thirty days after such issue, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this seventeenth day of May, 1927.

DECISION NO. 18373.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION GRANTING TO APPLICANT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE THE RIGHTS, PRIVILEGES AND FRANCHISE GRANTED BY ORDINANCE NUMBER EIGHTY-FOUR OF THE BOARD OF TRUSTEES OF THE CITY OF GRIDLEY; AND TO CONSTRUCT THE GAS DISTRIBUTION SYSTEM HEREIN DESCRIBED.

Application No. 13685.

Decided May 17, 1927.

CERTIFICATE—GAS UTILITY—FRANCHISE—TO EXERCISE.—Application granted.

R. W. Dural, for Applicant.

BRUNDIGE, *Commissioner*.

OPINION.

In this application, Pacific Gas and Electric Company asks the Railroad Commission for an order certifying that public convenience and necessity require and will require the exercise by it of the rights and privileges of franchise granted by the city of Gridley and the construction of a gas distribution system within the city of Gridley.

A public hearing was held May 11, 1927, at which time testimony was introduced and the matter submitted. No one appeared to oppose the granting of the application.

It appears that Pacific Gas and Electric Company has a gas transmission line between the cities of Marysville and Oroville. The company now desires to tap this transmission line near the city of Gridley and to install gas distribution facilities within the city of Gridley. It is in connection with such an extension of facilities that a franchise has been secured.

Ordinance No. 84, passed March 28, 1927, by the board of trustees of the city of Gridley, grants applicant a franchise to install and maintain gas facilities within the city of Gridley. This franchise, a certified copy of which is attached to the application, is for a term of fifty years and carries the usual provisions for a tax of 2 per cent upon the gross revenue, effective five years from the date of grant.

It appears that the territory which applicant proposes to serve is not now receiving gas service nor is there any immediate prospect of

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such territory being served by another utility. It also appears that service to the territory in question can be supplied without detriment to present and prospective consumers in the areas now supplied with gas service.

Favorable action on this application will be in the public interest and I therefore recommend the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission of the State of California for an order certifying that public convenience and necessity require and will require the exercise of the rights and privileges granted to it by the city of Gridley under Ordinance No. 84 and the construction of the gas distribution system described in the application, public hearing having been held, the matter being submitted and now ready for decision:

The Railroad Commission of the State of California hereby certifies and declares that public convenience and necessity require and will require the exercise by Pacific Gas and Electric Company of the rights and privileges of franchise granted by Ordinance No. 84 of the board of trustees of the city of Gridley and the construction of a gas distribution system described in the application.

The authority herein granted shall become effective upon the date applicant files with this Commission a stipulation duly and legally passed by its board of directors to the effect that applicant, its successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for the rights and privileges granted under Ordinance No. 84 of the city of Gridley in excess of the amount actually paid to the city of Gridley for said franchise.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this seventeenth day of May, 1927.

DECISION No. 18386.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF SANTA CRUZ FOR ORDER AUTHORIZING THE CONSTRUCTION OF AN OVERHEAD CROSSING OVER THE TRACKS OF THE SOUTHERN PACIFIC COMPANY AT RINCON, SANTA CRUZ COUNTY, CALIFORNIA.

Application No. 10816.

Decided May 24, 1927.

GRADE CROSSING—SEPARATION OF GRADES—COST APPORTIONED.—After further hearing the Commission sets aside its previous order for the construction of an overhead crossing 3500 feet north of existing grade crossing, and apportioning

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cost on a basis of 62½ per cent to applicant, and 37½ per cent to Southern Pacific Company, and directs the overhead crossing to be constructed at engineer's station 4020+07, near Rincon, under an agreement between the county and the company whereby the latter will contribute $20,000, and the county the balance, of the cost.

David C. Clark, Lloyd Bowman and *Nicholas Sinnout*, for Applicant.
F. W. Mielke, for Southern Pacific Company.

BRUNDIGE, *Commissioner.*

OPINION.

In the above entitled proceeding the county of Santa Cruz applied to the Commission for authority to eliminate a hazardous grade crossing over the tracks of Southern Pacific Company's College Park and Santa Cruz Branch, in the vicinity of Rincon, by substituting an overhead crossing to be located 3500 feet north of the existing grade crossing. In order to accomplish this separation, it was proposed to relocate the county road between the two crossings and shift Southern Pacific Company's tracks for a distance of about 2500 feet.

After a hearing on March 30, 1925, before Examiner Austin, the Commission, on June 3, 1925, entered its Decision No. 15003, in which the county and the railroad were directed to effect the grade separation in the manner proposed and in this decision the cost of constructing the project, which was estimated to be $66,500, was apportioned 62½ per cent to applicant and 37½ per cent to Southern Pacific Company.

On June 12, 1925, Southern Pacific Company filed a petition for rehearing and modification of the order, claiming that the Commission did not have jurisdiction to prescribe the location of the county road beyond the confines of the crossing and the approaches thereto. Argument on this petition for rehearing was held on July 22, 1925.

A further hearing was had on this matter May 11, 1927, at which time Southern Pacific Company proposed a plan whereby, in lieu of the assessment made in the Commission's Decision No. 15003, Southern Pacific Company would contribute $20,000 toward the cost of constructing this grade separation, the county of Santa Cruz to bear all other costs in connection with the project. The county of Santa Cruz is agreeable to accepting this offer but since the funds which were available in 1925 have been used for other highway work in the vicinity and the old road has recently been improved with a temporary macadam surface from which the county desires to receive some benefit, it has requested an extension of two years' time in which to erect the grade separation. Southern Pacific Company agreed to this extension of time and, since it appears that the hazard at the existing grade crossing has been somewhat reduced subsequent to the date of the Commission's former decision on this matter, it appears reasonable to delay the construction for two years.

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Since both parties have agreed on the division of cost, as well as the time and manner of performing the work, it appears that the old order should be rescinded and a new order entered in accordance with the desires of the parties as expressed at the hearing on May 11, 1927.

The following form of order is, therefore, recommended:

ORDER.

Further hearing having been held in the above entitled application and it appearing that the order heretofore made in this proceeding, Decision No. 15003, dated June 3, 1925, should be rescinded and a new order entered; therefore

It is hereby ordered, that Decision No. 15003, dated June 3, 1925, made by this Commission in the above entitled proceeding, be and it is hereby set aside.

It is hereby further ordered, that permission be and it is hereby granted to the county of Santa Cruz to eliminate an existing grade crossing of the county road with the track of Southern Pacific Company (College Park-Santa Cruz Branch) at engineer's station 4052+60 on said railroad and substitute therefor a crossing above the tracks at the location and in the manner hereinafter specified, said overhead crossing to be constructed subject to the following conditions, viz:

(1) The relocation of the county highway and the railroad tracks necessary to effect the grade separation shall be substantially as shown in applicant's Exhibit No. 1.

(2) The point of the overhead crossing shall be approximately at engineer's station 4020+07 on the constructed line of Southern Pacific Company near Rincon, Santa Cruz County, as shown by the map (Proposed Relocation of Southern Pacific Railroad and County Highway) applicant's Exhibit No. 1.

(3) The structure carrying said road over Southern Pacific Company's tracks shall be constructed in accordance with detailed plans and specifications which shall be filed with and approved by this Commission. It shall provide space for two parallel tracks with pier or other supporting member placed between the tracks.

(4) Said crossing shall be constructed with clearances conforming to provisions of the Commission's General Order No. 26-C.

(5) The existing public crossing of said county road located at engineer's station 4052+60, on the railroad, shall be legally abandoned and effectively closed to public use and travel in so far as the county of Santa Cruz has power so to do.

(6) Applicant shall, within thirty days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(7) If said crossing shall not have been installed within two years from the date of this order, the authorization herein granted shall then

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lapse and become void unless further time is granted by subsequent order.

It is hereby further ordered, that the cost of constructing said overhead crossing shall be apportioned in accordance with an agreement to be entered into between applicant and Southern Pacific Company. A copy of said agreement shall be filed with the Commission before the work of construction is undertaken.

It is hereby further ordered, that the future maintenance of the crossing shall be borne by applicant.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of May, 1927.

DECISION No. 18389.

IN THE MATTER OF THE INVESTIGATION UPON THE COMMISSION'S OWN MOTION INTO THE CLOSING BY POSTAL TELEGRAPH-CABLE COMPANY, A PUBLIC UTILITY, OF ITS TELEGRAPH OFFICE IN THE CITY OF POMONA, CALIFORNIA.

Case No. 2358.

Decided May 24, 1927.

COMMISSION'S INVESTIGATION—TELEGRAPH UTILITY—ABANDONMENT OF SERVICE.—Holding that Postal Telegraph-Cable Company was in error in closing its office at Pomona without permission, the Commission authorizes that action of the utility upon its showing of inadequate revenue, and other conditions that resulted in its unauthorized act.

Willard P. Smith, for Postal Telegraph-Cable Company.
Ernest Irwin, for California Independent Telephone Association.

BRUNDIGE, *Commissioner.*

OPINION.

This is the matter of the investigation upon the Commission's own motion into the closing by Postal Telegraph-Cable Company, a public utility, of its telegraph office in the city of Pomona.

A hearing was held in this case in San Francisco, on May 12, 1927, at which place and time the matter was submitted for decision.

The Postal Telegraph-Cable Company, sometimes hereinafter referred to as the Postal, is a California corporation, which has been doing a telegraph and telephone business in the State of California for the past several years. In the performance of its telegraph operations, it, from time to time, opens offices for the transaction of a general

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telegraph business and closes offices from which it has been doing a general telegraph business.

On April 1, 1927, the Postal by its "Advice No. 7" and "Revised Sheet C. R. C. No. 119-T Cancelling Revised Sheet C. R. C. No. 105-T," dated March 31, 1927, advised this Commission that its telegraph office in the city of Pomona had been closed. No authority from the Commission having been requested or obtained for the closing of said telegraph office and the discontinuance of public telegraph service thereform, the Commission instituted this proceeding.

Following the making of its order instituting investigation by the Commission, the Postal made answer alleging that on April 1, 1927, the building in which its telegraph office in the city of Pomona had been located was torn down; that it was unable to secure another location in said city; that, since the closing of said office and at the date of its answer, the city of Pomona was not deprived of telegraph service by reason of the closing of said office; and that the amount of its business in the city of Pomona does not justify the continuance or the reopening of said office.

At the hearing in this matter, George W. Holt, secretary of the Postal, stated, as a witness, that the company's operations in the city of Pomona resulted in a deficit of $360 for the year 1925 and a deficit of $140 for the year 1926 and substantiated in other respects the allegations of defendant's answer.

The Postal was in error in not making application to this Commission for authority to close its office in the city of Pomona. It appears, however, that the telegraph requirments of the public in the city of Pomona will be served properly at this time by the facilities of the Western Union Telegraph Company and The Pacific Telephone and Telegraph Company, now, as before, available in that city. It is my opinion that Postal Telegraph-Cable Company should not be required to reopen its telegraph office in the city of Pomona.

I submit the following form of order:

ORDER.

The Railroad Commission of the State of California having instituted upon its own motion an investigation into the closing by Postal Telegraph-Cable Company of its telegraph office in the city of Pomona, California, a public hearing having been held thereon, the matter having been submitted and being now ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that the Postal Telegraph-Cable Company did close its telegraph office in the city of Pomona on March 31, 1927, without authority from this Commission; that the telegraph service demands of the city

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of Pomona will be properly satisfied by the services of those companies which are at this time rendering telegraph service therein; that no good purpose will be effected by the reopening of a telegraph office in Pomona by Postal Telegraph-Cable Company; and therefore

It is hereby ordered, that Postal Telegraph-Cable Company be and it is hereby authorized to abandon telegraph utility service in the city of Pomona and to file, in accordance with the Commission's General Order No. 68, rate sheets setting forth the fact that said office is closed.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of May, 1927.

DECISION No. 18391.

IN THE MATTER OF THE APPLICATION OF SOUTH COAST GAS COMPANY, A CORPORATION, FOR A PERMIT TO EXERCISE FRANCHISE RIGHTS, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND FOR A PERMIT TO SELL ITS STOCK.

Application No. 13724.

Decided May 25, 1927.

CERTIFICATE—GAS UTILITY—FRANCHISE RIGHTS—TO EXERCISE—STOCK—TO ISSUE. —Holding that applicant proposes to issue an excessive amount of securities as compared with the reasonable estimated cost of its plant, the Commission dismisses the application without prejudice. It is pointed out that, were the application granted, rates would have to be allowed that would place an undue burden on the consumers.

George L. Hampton, for Applicant.

BY THE COMMISSION.

OPINION.

South Coast Gas Company asks the Railroad Commission to make an order; (a) declaring that public convenience and necessity require and will require applicant to exercise the rights and privileges obtained by Ordinance No. 312 of the city of Oceanside and to construct, maintain and operate an artificial gas plant at Oceanside; (b) authorizing the company to issue 1000 shares ($100,000 par value) of common and 850 shares ($85,000 par value) of seven per cent cumulative preferred stock; (c) authorizing the company to sell such stock at par for cash and use 70 per cent of the proceeds to pay the cost of selling the stock and the balance to acquire and construct the gas plant referred to in this application; (d) and permitting the company to charge the rates referred to herein.

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South Coast Gas Company was organized on or about March 18, 1927, with an authorized capital stock of $200,000 divided into $100,000 of common and $100,000 of 7 per cent cumulative preferred. In regard to the company's preferred stock, the articles of incorporation provide as follows:

> (The nature of the preference given to said one thousand shares of preferred stock is that the holders thereof shall be entitled to receive, and the corporation shall be bound to pay out of any and all surplus or profits, whenever ascertained, cumulative dividends thereon at the rate of seven per cent per annum, payable annually before any dividend shall be declared on the common stock.) Said preferred stock is subject to redemption at any time after the expiration of five (5) years from the date of the incorporation at one hundred five dollars ($105) per share.

It will be noted that the articles of incorporation are silent as to the extent to which holders of preferred stock may participate in the distribution of the assets of the corporation in case of the sale of the corporation's properties or its liquidation and do not prohibit, except perhaps by implication, the payment of dividends on common stock at a time when there are accumulated unpaid dividends on the preferred stock. This Commission will not authorize the issue of preferred stock, subject to such conditions as are set forth in the company's articles of incorporation.

It appears that on November 10, 1926, the board of trustees of the city of Oceanside adopted an ordinance (No. 312) Exhibit "E," granting to Curtis E. Flint, his heirs, successors and assigns, the right to erect, lay, operate and maintain gas pipes and conduits on all the public streets, alleys, highways and public places of the city of Oceanside, for the purpose of carrying gas for light, heat and power along and upon all the public streets, alleys, highways and public places of the city of Oceanside, for the period of time ending November 3, 1956. Under date of April 15, 1927, Curtis E. Flint assigned his rights and privileges under such ordinance to the South Coast Gas Company.

It is of record that applicant intends to construct an artificial gas plant which it reports will cost $145,000, segregated as follows:

Cost of construction as per contract between applicant and one E. A. MacGillivray, a copy of which is attached to the petition as applicant's Exhibit "I"	$127,500 00
Material for 200 additional services	1,000 00
Real property	6,000 00
Engineering and legal expenses incurred in the formation and completion of plant and distributing system	2,500 00
Labor for installing 700 services @ $2 per service	1,400 00
Franchise	1,500 00
Working capital	5,100 00
Total	$145,000 00

The contract between applicant and E. A. MacGillivray was originally signed by Curtis E. Flint. Later the name of South Coast Gas

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Company was substituted for that of Curtis E. Flint. The contract describes in general terms the plant which E. A. MacGillivray has agreed to construct. It provides that payments shall be made as follows:

$35,000 00 upon the signing of the contract.
35,000 00 when material going into the plant and ground is delivered at Oceanside, California.
35,000 00 when the contract is completed; and the balance,
22,500 00 30 days after completion.

C. C. Brown, an assistant engineer for the Commission, testified at the hearing that the cost of the property which E. A. MacGillivray had agreed to construct and the materials which he had agreed to furnish under the contract should be about $64,432. Subsequent to the hearing, C. C. Brown and E. A. MacGillivray had a conference in regard to the provisions of the contract, with the result that C. C. Brown submitted a revised report in which he estimates the cost of the property at $71,515. In preparing these estimates Mr. Brown has allowed for contingencies and for a contractor's profit on all work and equipment installed.

We do not believe that it is in the public interest for applicant to undertake to pay $127,500 for work and material that should not cost more than $71,515. While the Oceanside chamber of commerce and the board of trustees of the city of Oceanside urge (by letters dated prior to the hearing had on this application) that the Commission grant this application, they were not represented at the hearing. We have no objection to the construction of a gas plant at Oceanside provided it is built at a reasonable cost and financed in an ordinary business-like manner. To permit the construction under, or to recognize, the contract now before us in any way is likely to result in a request for rates that are unfair to the public. If such request is refused, which no doubt it would be, those who pay par for applicant's stock will not receive an adequate return on their investment. In this connection it might be said that applicant requests permission to issue $159,375 to raise the $127,500.

Regardless of the fact that payments may have been made on the contract for material purchased, we believe that this application should be denied without prejudice. When one undertakes the construction of a public utility property, he should inform himself of the provisions of the Public Utilities Act and familiarize himself with the rules and regulations of the Commission before undertaking actual construction or obligating himself in any contractual manner.

While our action in this matter may result in a delay in the construction of a gas plant at Oceanside, it does not mean that the Commission will not authorize the construction of such a plant at that place

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provided a reasonable proposition is submitted. The view that we take of this matter makes it unnecessary to comment on applicant's other proposed expenditures; its rates or stock issue other than what has been said about the provisions of its articles of incorporation.

ORDER.

South Coast Gas Company having applied for permission to construct an artificial gas plant and exercise the rights and privileges granted to it by Ordinance No. 312 of the city of Oceanside; to issue $100,000 of common stock and $85,000 of 7 per cent cumulative preferred stock, and to charge the rates to which reference has been made in the foregoing opinion, a public hearing having been held by Examiner Fankhauser and the Railroad Commission being of the opinion, for the reasons stated in the opinion which precedes this order, that this application should be denied without prejudice;

It is hereby ordered, that this application be and the same is hereby denied without prejudice.

Dated at San Francisco, California, this twenty-fifth day of May, 1927.

DECISION No. 18393.

THE INTER-CITY IMPROVEMENT ASSOCIATION, AN UNINCORPORATED ASSOCIATION, J. V. HAWES, J. L. COTTON ET AL.

vs.

A. B. CHAPMAN ESTATE, A CORPORATION.

Case No. 2270.

Decided May 25, 1927.

RATES—WATER UTILITY—COMPLAINT DISMISSED.—Finding that the utility had a net return of not to exceed 2.7 per cent on its invested capital for the twelve months' period ending February 28, 1927, the Commission holds that the company is not receiving an excessive return, and dismisses complaint.

Thos. S. Clay, for Plaintiffs.
Chapman and Chapman, by *L. M. Chapman*, for Defendants.

BY THE COMMISSION.

OPINION.

The above entitled case was filed by certain water users receiving service from the system owned by the A. B. Chapman Estate, a corporation, which, among other things, supplies domestic and irrigation water to the residents of that certain territory lying between the city of Pasadena and Arcadia and between Foothill boulevard and Duarte road, in Los Angeles County. The complaint in this proceeding alleges in effect that the present rates charged by the defendant are unjust and unreasonable for the following reasons:

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That rates were fixed upon the assumption that defendant delivered 11,678,350 cubic feet of water annually instead of approximately 28,000,000 cubic feet of water; that defendant's wells will produce 310 miner's inches of water, whereas the territory to which water is supplied does not require and will never require more than 200 miner's inches; that the present rate prohibits the use of water for irrigation on the one-acre tracts which were purchased for the purpose of devoting a large portion of each of such tracts to agricultural uses that in the fixing of the rates now in effect no consideration was given to the fact that each tract purchaser paid to the defendant, as part of the purchase price of his land, a portion of the development costs of the entire tract which included the water system; that about one-third of the total water delivered is used by defendant for the irrigation of its unsold lands for which service said defendant pays less than the cost of pumping. Wherefore, complainants request that the Commission investigate the matters complained of and fix a new and equitable rate to be paid for the water used.

Defendant by way of answer denies generally all of the essential allegations set out in the complaint and in addition thereto alleges that the rates now in force as established by the Railroad Commission are inadequate to produce a reasonable revenue to defendant for the operation of the water system, and further alleges that, if any change is to be made therein, said rate should be increased rather than decreased. The Commission therefore is asked to dismiss the complaint.

A public hearing in this matter was held before Examiner Williams at Los Angeles after all interested parties had been duly notified and given an opportunity to appear and be heard.

At the hearing in this matter, counsel for complainants informed the Commission that he would present evidence only in connection with the allegations set out in paragraph V, article A, of this complaint, in which it is alleged in effect that the present rates were established upon the assumption that defendant delivered to its consumers 11,678,000 cubic feet of water annually instead of 28,000,000 cubic feet, which latter amount, it is contended, is approximately the actual total amount of water delivered by defendant for all purposes.

The rates now in effect on this system were established by the Railroad Commission in its Decision No. 15876, decided January 19, 1926, and are as follows:

Monthly Meter Rates.

From	0	to	600	cubic feet, per 100 cubic feet		$0 25
From	600	to	3,000	cubic feet, per 100 cubic feet		20
From	3,000	to	5,000	cubic feet, per 100 cubic feet		15
From	5,000	to	25,000	cubic feet, per 100 cubic feet		10
All over			25,000	cubic feet, per 100 cubic feet		07

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Minimum Monthly Charges.

⅝-inch meter	$1 50
¾-inch meter	2 00
1 -inch meter	3 00
1½-inch meter	5 00
2 -inch meter	8 00
3 -inch meter	15 00

Each of the foregoing "minimum monthly charges" will entitle the consumer to the quantity of water which that minimum monthly charge will purchase at the "monthly meter rates."

A report was presented by Valentine B. Espinoza, a certified public accountant appearing on behalf of defendants, in which the accounts and records of the defendants' water utility operations were analyzed and which set forth the fixed capital installed and operating results as of February 28, 1927. By stipulation of complainants, this report was accepted to be true and correct. A similar report was also submitted by F. H. Van Hoesen, one of the Commission's hydraulic engineers, who made an estimate of the original cost of the used and useful properties of defendant and also a detailed analysis of the costs of operation and maintenance together with an estimate of the reasonable costs of system operation. Set out below for purposes of comparison is a summary of the final results of these two reports:

		Espinoza	*Van Hoesen Dec. 1, 1926*
Fixed capital, February 28, 1927		$161,429 89	$154,775 29
Maintenance and operation expense, twelve months ending February 28, 1927		14,288 59	14,490 00
Depreciation annuity and 6 per cent sinking fund		3,373 41	2,574 95
Revenue twelve months ending February 28, 1927—			
Domestic	$13,794 59		
Irrigation	8,156 68		
		21,951 27	20,089 03
Amount left for interest return		4,289 27	3,035 00
Rate of return		2.7%	1.9%

From the above figures it is evident that the operations of this system for a full twelve-months' period ending February 28, 1927, result in a net return of not in excess of 2.7 per cent upon the invested capital taking the maximum determination possible from the figures presented.

In this proceeding, the principal cause of complaint is that the Chapman Estate, itself, uses a very large amount of water and is therefore enabled to obtain its water supply at a rate which in the average costs it considerably less than the smaller water users must pay. This is, of course, true, but this is also true of all users of very large volumes of water on all water systems using a graduted scale of quantity rate charges. All water delivered to the estate is measured at the wells and the estate must thereby suffer all line and distribution losses, whereas deliveries to the users of smaller quantities are made to each individual and measured at his own premises. The principle of granting a less rate for large wholesale consumption is of course obvious. The cost

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of serving one consumer using a very large volume of water is clearly very much less than the cost of serving a great number of consumers whose combined total use would be approximately the same. In this instance defendant, upon its unsold lands, uses a great deal more water than any or all of the other consumers; for instance, from the period commencing February 1 and ending December 1, 1926, Chapman Estate paid a total of $6,139 for water used for irrigation and other purposes while all of the other consumers combined paid $847 during the same period.

Complainants also contended that in fixing the rates now in effect the Commission did not give proper consideration to the water used by the Estate Company. The evidence shows, however, that the total use of the estate, both actual, as far as records then existing disclosed, as well as the estimated future use, was given full and proper consideration by the Commission. Had this matter not been properly accounted for, it is very clear that the rate as established would undoubtedly have been much higher.

In connection with the claim that the Estate Company has received water at less than the cost of production, it should be sufficient to say that the testimony indicates that the cost of production per 100 cubic feet on this system was approximately 4.6 cents in 1926, for which the user of water in excess of 25,000 cubic feet per month pays 7 cents per 100 cubic feet for such excess only, being required to pay the regular quantity rates in effect for all of the first 25,000 cubic feet used.

Full consideration of the evidence presented in this proceeding leads to the conclusion that the schedule of rates now in effect on this system is not unfair or unreasonable but compares very favorably with the rates charged by similar utilities operating in the general vicinity and under similar conditions and circumstances, and it further appears that the present rates have not resulted in yielding revenues to the defendant in excess of a fair return upon the investment under the existing conditions. The complaint therefore will be dismissed.

ORDER.

Complaint, as entitled above, having been made against A. B. Chapman Estate, a corporation, to the effect that the rates charged its consumers for water service are unfair and unreasonable, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed thereon;

It is hereby ordered, that the above entitled proceeding be and the same is hereby dismissed.

The effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-fifth day of May, 1927.

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DECISION NO. 18394.

CELITE PRODUCTS COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 2363.

Decided May 25, 1927.

RATES—STEAM RAILROAD—SODA ASH—REPARATION AWARDED.—Defendant carrier directed to refund to complainant all charges collected in excess of 36 cents per 100 pounds for the transportation of 25 carloads of soda ash from Keeler and Cartago to Lompoc and White Hills during the period from May 24, 1925, to July 5, 1926.

BY THE COMMISSION.

OPINION.

Complainant, a corporation, organized under the laws of the state of Maine with its principal place of business at Los Angeles, California, is engaged in producing and marketing infusorial earth and its products. By complaint filed May 4, 1927, it is alleged that the rate of 60 cents charged for the transportation of 25 carloads of soda ash shipped from Keeler and Cartago to Lompoc and White Hills during the period May 24, 1925, to July 5, 1926, inclusive, was unreasonable and in violation of section 13 of the Public Utilities Act of the State of California to the extent it exceeded a rate of 36 cents.

Reparation only is sought. Rates are stated in cents per 100 pounds.

The applicable charges were based on a combination rate of 60 cents, made 21½ cents to Los Angeles, plus 38½ cents beyond. The first factor is a commodity rate shown in Southern Pacific Company Tariff 730-C, C. R. C. 2904; the latter the fifth class rate shown in Southern Pacific Company Tariff 711-C, C. R. C. 2843.

Effective July 22, 1926, defendant voluntarily established a through commodity rate of 36 cents from and to the points involved.

Complainant bases its plea for reparation upon the lower rate subsequently established. Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment; therefore, under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assailed was unreasonable to the extent it exceeded the subsequently established rate of 36 cents. We further find that complainant paid and bore the charges on the shipments involved in this proceeding and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

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Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund to complainant, Celite Products Company, all charges it may have collected in excess of 36 cents per 100 pounds on the shipments involved in this proceeding and forwarded during the period from May 24, 1925, to July 5, 1926, inclusive, from Keeler and Cartago to Lompoc and White Hills.

Dated at San Francisco, California, this twenty-fifth day of May, 1927.

DECISION No. 18395.

CELITE PRODUCTS COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 2364.

Decided May 25, 1927.

RATES—STEAM RAILROAD—TRONA SALTS—REPARATION AWARDED.—Defendant carrier directed to refund to complainant all charges collected in excess of 27 cents per 100 pounds for the transportation of ten carloads of crude trona salts from Keeler to Lompoc and White Hills, during the period from June 2, 1925, to January 5, 1926.

BY THE COMMISSION.

OPINION.

Complainant, a corporation, organized under the laws of the state of Maine with its principal place of business at Los Angeles, California, is engaged in producing and marketing infusorial earth and its products. By complaint filed May 4, 1927, it is alleged that the rate of 55½ cents charged for the transportation of 10 carloads of crude trona salts shipped from Keeler to Lompoc and White Hills during the period from June 2, 1925, to January 5, 1926, inclusive, was unreasonable and in violation of section 13 of the Public Utilities Act of the State of California to the extent it exceeded a rate of 27 cents.

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Reparation only is sought. Rates are stated in cents per 100 pounds.

The applicable charges were based on a combination rate of 55½ cents, made 17 cents to Los Angeles plus 38½ cents beyond. The first factor is a commodity rate shown in Southern Pacific Tariff 730-C, C. R. C. 2904; the latter the fifth class rate shown in Southern Pacific Tariff 711-C, C. R. C. 2843.

Effective March 25, 1926, defendant voluntarily established a through commodity rate of 27 cents from and to the points involved.

Complainant bases its plea for reparation upon the lower rate subsequently established. Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment; therefore, under the issues as they now stand, a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assailed was unreasonable to the extent it exceeded the subsequently established rate of 27 cents. We further find that complainant paid and bore the charges on the shipments involved in this proceeding and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Southern Pacific Company be and it is hereby authorized and directed to refund to complainant, Celite Products Company, all charges it may have collected in excess of 27 cents per 100 pounds on the shipments involved in this proceeding and forwarded during the period from June 2, 1925, to January 5, 1926, inclusive from Keeler to Lompoc and White Hills.

Dated at San Francisco, California, this twenty-fifth day of May, 1927.

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DECISION No. 18399.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA UTILITIES, INCORPORATED, FOR AUTHORITY TO INCREASE WATER RATES.

Application No. 13305.

Decided May 25, 1927.

RATES—WATER UTILITY—TO INCREASE.—Finding the present rates produce about 5 per cent net return on a rate base of $678,254, the Commission authorizes a slight increase in rates. The utility is directed to install, without cost to the consumers, separate meters wherever possible.

Paul Overton, for Applicant.
Carson B. Hubbard, City Attorney, for City of Huntington Park, Protestant.
C. A. Johnson, for Florence Chamber of Commerce, Protestant.
Lorenzo Romans, for Tract 5450, Protestant.
Mrs. Bettie Mahood, for Fruitland District of Huntington Park, Protestant.

BY THE COMMISSION.

OPINION.

Southern California Utilities, Inc., supplying water for domestic and industrial uses in and in the vicinity of the city of Vernon, and in what is known as Goodyear Park, Los Angeles County, requests authority from the Railroad Commission to increase its schedule of rates. Applicant alleges in effect that the present rates are unjust and unreasonable in that they do not produce sufficient revenue to earn a fair return upon the investment.

A public hearing in this proceeding was held before Examiner Williams at Los Angeles after all interested parties had been duly notified and given an opportunity to be present and be heard.

This water system was originally installed in 1903 and operated under the name of South Los Angeles Water Company. In 1916, the name was changed to South Los Angeles Land and Water Company, and in January, 1926, the system was transferred to the Southern California Utilities, Inc., by authority of the Commission in its Decision No. 16727. In 1920, the city of Huntington Park purchased all that portion of the system within its then city limits. Service by applicant has now been extended to include the city of Vernon and what is known as Goodyear Park.

The water supply is obtained from wells located at four advantageous points within the territory served. Water is either pumped directly into the mains or elevated into high storage tanks from which it is distributed by gravity to the consumers. At the present time applicant has an ample water supply to meet system demands and apparently has an abundant underground supply for future development.

The rates now in effect were established before the enactment of the Public Utilities Act and are as follows:

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Minimum Rate Per Month.

For 1000 cubic feet	$1 00
For each 100 cubic feet in excess of 1000 cubic feet	10

On December 1, 1926, the following flat rates for special construction service were accepted for filing:

(1) For cement walks for each 100 square feet	$0 20
(2) For cement curbs, for each 100 linear feet	40
(3) For all other purposes, per barrel of cement used	10
(4) For grading, macadam or other natural surface street work, per 1000 square feet	50
(5) For water settling pipe trenches less than 2 feet wide and 4 feet deep, per linear foot trench	02

For wider and deeper trenches, a proportional charge shall be made.

Detailed reports showing an appraisal of the properties of this utility, replacement annuity, an analysis of maintenance and operating expense, and revenues were submitted at the hearing by R. H. Nicholson, for applicant, and F. H. Van Hoesen, one of the Commission's hydraulic engineers. A summary of the final results of these reports covering the above items is set out below:

	Nicholson	*Van Hoesen*
Estimated original cost as of January 1, 1927	$758,238 00	$678,254 00
Annuity 5 per cent sinking fund method	16,253 00	14,308 00
Maintenance and operating expense for 1926	73,009 00	69,757 00
1926 revenues	115,336 00	115,336 00

An analysis of the details of these appraisals shows a considerable variation in the estimates of cost of lands which is largely due to differences in classification as to usefulness in the public service. It appears from the testimony that applicant has included certain lands which are not at the present time used or useful in supplying water to its consumers. These lands are located in a business or industrial area, but the wells located thereon have not been used for many years last past. Better and more advantageously located wells have been drilled elsewhere. From the evidence it appears that the physical properties classified as nonoperative by the Commission's engineer were properly excluded and we are therefore of the opinion that, for the purposes of this proceeding, the sum of $678,254 is a fair and proper rate base and that $14,308 is a reasonable allowance for the annual depreciation fund.

The record discloses considerable variation in the costs of operation and maintenance for both past and future as submitted by applicant and the Commission's engineer. Applicant set forth the operating expenses for 1926 to be $73,009 and estimated the expenses for 1927 to be $79,055, while the Commission's engineer gave the operating expenses for 1926 as $69,757 and estimated the reasonable costs of operation for the immediate future to be $63,475. The evidence shows

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that applicant has included in the operating expenses some capital charges, certain expenditures included in prior years and also certain extraordinary expenses which will not recur annually together with items of expense which have now been eliminated entirely and will not arise in the future. However, it also appears that the estimate of future operating expenses as presented by the engineer for the Commission did not make adequate provision for the increased taxes attributable mainly to the 2 per cent gross revenue tax levied by the county of Los Angeles on water systems and also general office and commercial expense. In view of these circumstances, it appears that the sum of $67,000 is an adequate and proper allowance for the operating and maintenance expenses for the immediate future.

Based upon the foregoing figures and using the operating expenses as determined for the future, the operations for the year 1926 resulted in gross revenues of $115,336 and a net return of approximately 5 per cent upon the rate base of $678,254. It is apparent, therefore, that applicant is entitled to an increased schedule of rates.

A considerable amount of dissatisfaction was expressed by many of the consumers with the existing rate schedule which provides for the collection of a minimum monthly charge from each patron where water is furnished to more than one consumer through the same metered service connection. Obviously, this method will produce more revenues than when only a single monthly minimum is charged for each meter. To abolish the present type of rate structure on this system under the existing operating conditions will necessarily require a substantial increase in the quantity rates to produce the same revenues. In this particular instance, the suggested change will result in the loss of approximately $1,000 per month in revenues or about $12,000 per year which will have to be made up through an increased rate.

This utility is operating upon a competitive basis with a municipally owned and operated water works and has for this reason requested the establishment of a rate that will produce a certain amount of increased revenues and at the same time still permit it to continue to serve in the areas made competitive by the municipal water works. The rate established herein is substantially the rate requested by applicant and will result in but only slight increase in the cost of water to consumers. In connection with the monthly minimum charges, it should be pointed out that each consumer is entitled to a separate metered service connection and should the plumbing upon his premises be so arranged as to be supplied by an individual pipe, such consumer may have installed, without expense to him, a separate meter by applying to the utility.

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ORDER.

Southern California Utilities, Inc., having made application as entitled above, a public hearing having been held thereon, and the Commission being now fully informed in the matter;

It is hereby found as a fact that the rates now charged by Southern California Utilities, Inc., for water delivered to consumers in and in the vicinity of Vernon, and what is known as Goodyear Park, Los Angeles County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

Basing its order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Southern California Utilities, Inc., be and it is hereby directed to file with this Commission within thirty days of this order the following schedule of rates to be charged for all water service rendered on and after the first day of June, 1927:

Minimum Monthly Charges.

⅝" x ¾" meter	$1 00
¾" meter	1 50
1" meter	2 00
1½" meter	2 50
2" meter	3 50
3" meter	5 00

Each of the foregoing "minimum monthly charges" will entitle the consumers to the quantity of water which that monthly minimum charge will purchase at the following quantity rates:

0 to 800	cubic feet, per 100 cubic feet	12½ cents
800 to 50,000	cubic feet, per 100 cubic feet	12 cents
50,000 to 300,000	cubic feet, per 100 cubic feet	11½ cents
Over 300,000	cubic feet, per 100 cubic feet	11 cents

Flat Rate.

(1) For cement walks for each 100 square feet	$0 20
(2) For cement curbs for each 100 linear feet	40
(3) For all other purposes, per barrel of cement used	10
(4) For grading, macadam or other natural surface street work, per 1000 square feet	50
(5) For water settling pipe trenches less than 2 feet width and 4 feet depth per linear foot trench	02
For wider and deeper trenches, a proportional charge shall be made.	
(6) Fire hydrants, each month	1 00

It is hereby further ordered, that Southern California Utilities, Inc., be and it is hereby directed to file with the Commission within thirty days from the date of this order, rules and regulations with their consumers, such rules and regulations to become effective upon their acceptance by this Commission.

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For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-fifth day of May, 1927.

DECISION No. 18400.

IN THE MATTER OF THE APPLICATION OF LIBERTY ACRES WATER COMPANY FOR PERMISSION AUTHORIZING AN INCREASE IN RATES FOR WATER SERVICE.

Application No. 13670.

Decided May 25, 1927.

RATES—WATER UTILITY—TO INCREASE.—Reasonable rates established that will enable the present operator to continue the business, which was abandoned by his predecessor, said new rates not placing an undue burden on consumers.

Jerry Campbell, for Applicant.

BRUNDIGE, *Commisioner*.

OPINION.

Liberty Acres Water Company, a corporation, the applicant in the above entitled proceeding, is engaged in the public utility business of supplying water for domestic purposes to consumers living in tracts No. 5755 and No. 6490, in Los Angeles County. Applicant alleges in effect that the income under the present operating conditions is wholly insufficient to meet the bare costs of pumping, repairs and labor, and therefore requests the Commission to establish an increased schedule of rates.

A public hearing in the matter was held at Los Angeles after all interested parties had been duly notified and given an opportunity to appear and be heard.

According to the evidence, Ole Hanson, a real estate operator, originally installed this water system and organized the Liberty Acres Water Company in 1922 to aid in the sale of lots in tracts No. 5755 and No. 6490, Los Angeles County. On August 16, 1924, the Commission in its Decision No. 13926 granted to this company a certificate of public convenience and necessity to operate a public utility water system. The rates now in effect were established by this Commission on April 13, 1926, by Decision No. 16486 and are as follows:

Monthly Flat Rate.

For ¾-inch service	$1 50
For 1-inch service	3 00

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Meter Rates.

Minimum Monthly Charges.

⅝- by ¾-inch meters	$1 50
¾-inch meters	2 00
1 -inch meters	3 25
1½-inch meters	5 00
2 -inch meters	7 00

Each of the foregoing "minimum monthly charges" will entitle the consumer to the quantity of water which that minimum will purchase at the "monthly meter rates" set out as follows:

Monthly Meter Rate.

From 0 to 1,500 cubic feet, per 100 cubic feet	$0 25
From 1,500 to 2,500 cubic feet, per 100 cubic feet	20
Over 2,500 cubic feet, per 100 cubic feet	15
Fire hydrants, each, per month	50

The water supply of this utility is obtained from a well equipped with an electrically driven deep well pump. Water is pumped either directly into the mains or may be stored in a redwood tank of 25,000 gallons capacity, from which distribution can be made by gravity.

Applicant submitted a statement showing the cost of operating the system for the months of February, March and April, 1927, together with the revenue collected for the same period. The results are as follows:

1927	*Cost of operation*	*Revenue*
February	$255 92	$90 00
March	224 40	87 00
April	234 43	107 50

Analysis of the figures presented by applicant indicates that a portion of the operating costs should be charged to capital and, also, that a considerable amount of the expenses was incurred for repairs made necessary through deferred maintenance and neglect of the water mains prior to applicant's control and management. Such extraordinary expenses should not recur annually.

F. H. Van Hoesen, one of the Commission's engineers, submitted a report which gave the estimated original cost of the used and useful properties of the Liberty Acres Water Company to be $35,026 as of May 1, 1927, with a corresponding depreciation annuity of $944 computed by the sinking fund method at five per cent. In this report, the maintenance and operating expenses for the year 1925, as shown by the company's books, were found to be $1,316, and the sum of $1,710 was recommended as a reasonable annual cost of operation and maintenance for the immediate future.

There are approximately sixty consumers receiving water from this system and at the present flat rate of $1.50 per month, with the result that existing rates will produce a revenue of approximately $1,080 for

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the year. Under the conditions existing on this system, as more fully discussed later in this opinion, it is apparent that the present rates are not sufficient to enable the applicant to continue operations.

There was no particular objection on the part of those consumers present at the hearing against the granting of a reasonable increase in the existing rate schedule of this utility. There was, however, considerable protest by the consumers as to the condition of the streets and sidewalks in the territory served, resulting from leaks in the distribution mains. Unquestionably, considerable damage has been done by this water system as the result of the gross neglect of the entire water plant by former owners, who discontinued the operations for a period of several months, during which time service was maintained only through the efforts of the Railroad Commission and the present applicant, Mr. Campbell. After considerable difficulty, the Commission has been able to obtain an operator for this system who will devote whatever time is necessary to improve conditions and render adequate service to the consumers. It must be pointed out, however, that the condition of the pipe lines is such that considerable time and money necessarily must be spent in order to place the plant on a proper operating basis. It should also be borne in mind that, although efforts were made by the Commission to induce the consumers to organize a mutual water company and take over the conduct of the affairs of this company, none of them were willing to accept the responsibility and devote the necessary time and money to place and maintain this plant in proper condition to serve the consumers. It is evident that this water system can not be entirely reconstructed at the present time. The necessary repairs and replacements of pipe lines and equipment will be carried on from time to time as finances of the company warrant. A reasonable amount of indulgence, therefore, should be given to the present owner and operator, who has volunteered to assume the obligations and liabilities heretofore abandoned by his predecessors in interest. As a result of the unfortunate combination of circumstances through which this water company has recently passed, a rate which will enable this applicant to continue in the business without incurring severe financial loss, will necessarily be higher than normal operating conditions would warrant. However, the rates established in the following order are reasonable under the circumstances and will not place an undue burden upon the consumers. This rate schedule may properly be considered as more in the nature of an emergency rate and, when the present extraordinary service conditions have been overcome, it may be found that the rate as established herein will be higher than necessary. If and when this time arrives, the Commission will gladly consider a downward readjustment of the minimum charges and monthly quantity rates herein fixed.

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The following form of order is submitted:

ORDER.

Liberty Acres Water Company, a corporation, having made application as entitled above, a public hearing having been held thereon and the matter having been submitted:

It is hereby found as a fact that the rates now charged by the Liberty Acres Water Company, a corporation, for water supplied to its consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for the service rendered; and, basing its order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that the Liberty Acres Water Company be and it is hereby authorized and directed to file with the Commission within thirty days from the date of this order the following rates for water delivered to its consumers, said rates to be charged for all water delivered on and after the thirty-first day of May, 1927:

Flat Rates.

Residences, eight rooms or less, including bath and toilet	$2 50
For each additional room over eight	25
For each additional bathtub	25
For each additional toilet	15
For sprinkling or irrigating lawns and gardens for each month during which water is actually used, per 100 square feet of surface irrigated	05
Fire hydrants, each	75

Meter Rates.

Minimum monthly charges.

⅝- by ¾-inch meter	$2 50
¾-inch meter	3 00
1 -inch meter	4 00
1½-inch meter	5 50
2 -inch meter	8 00

Each of the foregoing "minimum monthly charges" will entitle the consumer to the quantity of water which that minimum will purchase at the "monthly quantity rates" set out below:

Monthly Quantity Rates.

From 0 to 1,000 cubic feet, per 100 cubic feet	$0 35
From 1,000 to 2,500 cubic feet, per 100 cubic feet	25
Over 2,500 cubic feet, per 100 cubic feet	15

It is hereby further ordered, that the Liberty Acres Water Company be and it is hereby directed to file with the Railroad Commission within thirty days from the date of this order rules and regulations governing the service of water to its consumers, said rules and regulations to become effective upon their acceptance for filing by the Railroad Commission.

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For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fifth day of May, 1927.

DECISION No. 18401.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY, A CORPORATION, FOR AUTHORIZATION TO INCREASE RATES.

Application No. 11379.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY, A CORPORATION, FOR AUTHORIZATION TO INCREASE RATES.

Application No. 11380.

IN THE MATTER OF THE INVESTIGATION, ETC., RATES CHARGED BY SOUTHERN COUNTIES GAS COMPANY, FOR NATURAL GAS FURNISHED TO LOS ANGELES GAS AND ELECTRIC CORPORATION.

Case No. 2186.

Decided May 25, 1927.

RATES—NATURAL GAS—WHOLESALE—TO INCREASE.—Base wholesale rate charged by Midway Gas Company, Southern California Gas Company and Southern Counties Gas Company of California to Los Angeles Gas and Electric Corporation, increased from 14 to 15½ cents per 1000 cubic feet.

STIPULATION—GAS ADMINISTRATOR—APPOINTMENT OF.—The Commission declares its intention to appoint an administrator to apportion and control the supplying of natural gas in conformity with a stipulation by the utilities dated March 12, 1927.

OPINION AND ORDER ON REHEARING.

These applications for rehearing were regularly set for argument at Los Angeles on March 3, 1927. At that time certain stipulations were made by the parties and the rehearing was continued to San Francisco on March 12, 1927, at which time a further stipulation was made by all the parties. In order to have the stipulations in more accessible form the portions of the transcript dealing with them are herein set forth:

Portion of Transcript of Proceedings at Los Angeles, March 3, 1927.

COMMISSIONER DECOTO: These are applications 11379, 11380, and case 2186. Are you ready to proceed at this time, gentlemen?

MR. OVERTON: Yes, if the Commission please, on behalf of the Los Angeles Gas and Electric Corporation.

COMMISSIONER DECOTO: Proceed.

MR. OVERTON: If the Commission please, there are a number of considerations involved in the relations between the companies that furnish gas wholesale here and

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the distributing companies, other than the mere question or matter of rate. Among these considerations, I might name two that are of considerable importance, particularly to the distributing companies. One involves the matter of pressures at which gas may be received here directly into the distributing lines. The other involves the more serious problem, the most serious problem, in fact, that confronts the companies here in their engagement to furnish natural gas, and that is the problem growing out of the fact of the great variation between the demand in the summer time and the demand in peak periods of the winter time. That variation sometimes is as much as five or six to one. And inasmuch as these companies must provide as near as they can to meet the situation in the winter time, it is obvious there is an enormous amount of gas with which something has to be done in the summer time or in the slack periods.

In view of this situation, the Los Angeles Gas and Electric Corporation, as being the largest distributor of gas under these conditions, has for some time been desirous of protecting itself with respect to the demands in the summer time, in view of the variation between the summer and the winter loads. And in order to carry that out and get full cooperation of the other companies in this regard, the Los Angeles Gas and Electric Corporation is willing to stipulate at this time that a modification may be made in the opinion and order of the decision, being Decision No. 17830, to the effect that during the period from November 15th to April 15th it will agree to pay to the companies that furnish gas to it at wholesale a price of 15½ cents per thousand cubic feet for the first 40 million cubic feet, and during the period from April 15th to November 15th, 15½ cents for all natural gas furnished to it by these companies, that modification taking place of the 14-cent rate established in that decision and order, and the opinion, decision and order in all other respects to remain as originally promulgated; this being upon the stipulation and understanding that the Midway Gas Company and Southern California Gas Company will, so far as is reasonable with the equipment now installed, deliver this gas to the Los Angeles Gas and Electric Corporation at pressures which will relieve it, so far as possible, of the necessity of recompression of the gas, and also that these companies will cooperate to the fullest in an effort to prevent the so-called blow-off of natural gas which would, under present conditions obtain with respect to the interests of the Los Angeles Gas and Electric Corporation and the Southern Counties Gas Company.

MR. WILLIAMS: If the Commission please, it is my understanding that the stipulation suggested of Mr. Overton relates to Exhibit A attached to the order or decision of the Commission, No. 17830, and that he is willing to stipulate that that portion of the order contained in Exhibit A may be modified so that the rate for the first 40,000 M.c.f. each day from November 15th to April 14th, inclusive, and for all gas each day from April 15th to November 14th inclusive, shall be 14 cents per M.c.f.; and that for the next 10,000 M.c.f. each day from November 15th to April 14th, inclusive, the rate shall be 20 cents per M.c.f. plus one cent per M.c.f. for each 10 cents that the market price of fuel oil exceeds $1 per barrel, but not more thhan 25 cents per M.c.f. and for all over 52,000 M.c.f. each day from November 15th to April 15th inclusive, the rate will be 25 cents per M.c.f.

MR. OVERTON: The order to remain in effect in all particulars except with respect to the first 40 million during the period I have referred to.

MR. WILLIAMS: In other words, where the 14-cent rate is specified, it is to be 15½ cents?

MR. OVERTON: Yes.

MR. GUILLOU: I think in reading that you quoted 14 cents from the order instead of the 15½, Mr. Williams.

MR. WILLIAMS: I meant 15½. The understanding is wherever the 14 cents appears in that portion of the order contained in Exhibit A, 15½ cents is to be inserted, according to your stipulation, and the order otherwise to remain as drawn; is that correct?

MR. OVERTON: I so stated it.

MR. GUILLOU: How about the minimum daily bill?

MR. WILLIAMS: That is to remain as it is contained in the order, according to my understanding.

MR. OVERTON: With the exception I stipulated it was upon condition that the interests controlling these companies would cooperate to the fullest to prevent loss

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to the interests of the Los Angeles Gas and Electric Corporation and the Southern Counties Gas Company through the so-called blow-off gas.

MR. WILLIAMS: The minimum daily bill, of course, as suggested by you, is to be 30,000 M.C.F. multiplied by 15½ rather than 14 cents; that is correct, is it not?

MR. OVERTON: Mr Williams, if you will pardon me, my stipulation involved the cooperation of your companies to avoid waste to us at such times as that minimum would require us to pay for gas we could not use.

MR. WILLIAMS: That is my understanding. Now, the Midway Gas Company and the Southern California Gas Company, while we doubt very much that rate will be adequate, in order to do away with further proceedings in this matter we are willing to accept that stipulation and dismiss our applications for rehearing in these proceedings, provided that the order of the Commission be issued conforming to the stipulation.

MR. GUILLOU: Let me see if I have that agreement on the minimum bill there correct. It is to be for 30 million cubic feet per day at 15½ cents?

MR. OVERTON: As modified by the express condition I stated, namely, they were to cooperate with us as fully as possible to avoid a situation that would result in blow-off of gas under such a minimum. There are, as I understand, certain operating conditions or certain ways by which they can ameliorate that condition or mitigate it.

MR. GUILLOU: I am thinking of the modification to be made in the order, just to get it definite.

MR. WILLIAMS: You understand it now?

MR. GUILLOU: Yes.

COMMISSIONER BRUNDIGE: I might say I am not quite clear as to how you are to conserve the gas which otherwise would be wasted, under this particular stipulation which you have entered into here. I would like a statement from you on that.

MR. OVERTON: Well, I think, if the Commission please, that that is a matter that perhaps could best be stated by the Midway and the Southern California companies. They have certain operating methods by which that condition could be avoided, as I understand, and I think probably they can elucidate that matter better than we can.

MR. WILLIAMS: Mr. Macbeth can make a statement on that.

MR. MACBETH: If the Commission please, we expect to be able to assist the interests owning the Los Angeles Gas and Electric Corporation in the gas which they have contracted to buy and which they expect this summer not to be able to use, in two ways. While the system has not been worked out so as to be able to say to what extent this can be done, we are fully convinced there are certain agreements under which we operate and we buy gas which do not require that we take and have to pay for gas to quite the extent which the other Company has. And we hope to be able to cut back on some of this gas and take gas that the Southern Counties is obligated to take so that they won't have to pay for gas which goes in the air. The other situation is that there are certain dry gas wells on our system which we hope to be able to close up, at least either wholly or partly, and conserve that gas for future use and use the gas which is being produced and which has to waste if it is not used—use that in place of that. That is what we expect to be able to do.

COMMISSIONER DECOTO: Are there any other companies going to enter into this agreement?

MR. OVERTON: Of course, if the Commission please, that stipulation would necessarily involve a like situation with respect to the Southern Counties Gas Company, on behalf of the Los Angeles Gas and Electric Corporation. That is to say, inasmuch as the decision of this Commission fixing wholesale rates for the Southern Counties Gas Company to the Los Angeles Gas and Electric Corporation was expressly based upon the findings and the situation involving the Los Angeles Gas and Electric with the Midway and Southern California companies, it would naturally and logically follow that the same rate will apply to the Southern Counties Gas Company, and we will enter into a similar stipulation in that regard with that company in consideration of dismissal of their application for rehearing. The stipulation, of course, obviously, if the Commission please, involves a change of the 14-cent first block to 15½ cents. Of course, the minimum is different in that case than in the other but it involves merely a change of that first block from 14 to 15½. Otherwise the order remains as originally promulgated.

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MR. GUILLOU: In the Southern Counties rate also the amount of minimum is to be changed to correspond with the change in rate.

MR. EDWARDS: No, the order is to remain exactly as it is except it is to read 15½ cents where it now says 14.

MR. OVERTON: The block is different, that is all; period of duration of that rate is the same, but I think the minimum there is 9 million, is it not?

MR. GUILLOU: Yes, the clause under the minimum bill says so much money for so many feet of gas, and that will only match up if the rate is 14 cents.

MR. OVERTON: The minimum amount of gas remains the same but the rate is changed from 14 to 15½ for that first block.

MR. GUILLOU: So that the amount of money under the minimum is also changed.

MR. OVERTON: Certainly, being 1½ cents per thousand more.

Portion of Transcript of Proceedings at San Francisco, March 12, 1927.

MR. WHEAT: It occurs to me, your Honor, that this document as to which we are discussing is not yet a part of the record, and at some appropriate moment I assume you will order it to be read into the record or copied into the record.

COMMISSIONER DECOTO: Yes, we will ask that it be either read into the record or a copy given to the reporter with the understanding he shall copy it into the record. Now, are we ready to proceed with this stipulation?

MR. WILLIAMS: I will say on behalf of the other parties to this proceeding, Mr. Commissioner, that is, the other utilities and Mr. Stephens, if they are satisfied with the stipulation, and the Commission also satisfied with it, we are willing. That is, the Midway Gas Company and the Southern California Gas Company are willing to enter into this stipulation, and also the other stipulation entered into at the last hearing, namely, March 3, 1927, relative to the raising of the 14-cent rate to the 15½-cent rate, conditional upon that rate being raised to that extent by order of the Commission, whereupon we will forthwith file a dismissal of our application for rehearing.

COMMISSIONER DECOTO: In other words, this stipulation is to be considered together with all the stipulations made at the hearing in Los Angeles on March 3d of this year?

MR. WILLIAMS: Yes sir; and they are to be binding on the two companies which I represent upon the increase of the rate to 15½ cents, whereupon, as I say, we will file dismissals of our application for rehearing. That is your understanding of it, Mr. Commissioner?

COMMISSIONER DECOTO: That is correct. How about you Mr. Overton? How about the Los Angeles Gas and Electric and the Southern Counties?

MR. OVERTON: Yes, we so stipulate. And I am authorized to represent the Southern Counties Gas Company also, so they will so stipulate.

COMMISSIONER DECOTO: You will enter into this stipulation we are about to read to the reporter?

MR. OVERTON: Yes.

COMMISSIONER DECOTO: Has the city anything to say on the matter?

MR. STEPHENS: Perhaps for the sake of the record I might say a few words. We have been mentioned many times in the discussion of this stipulation as being satisfied with this and with that. Bearing in mind that the stipulation, taken as a whole, contemplates an increase of a rate, I take it we have not been asked or expected to stipulate in that connection. The rate, of course, affects only the wholesale rate between the wholesale and retail companies. This is in connection with an application for a rehearing, and we have nothing further to offer in that connection. We believe, fundamentally, that a rate should always be given, particularly to wholesale companies, which will put them in a financial position to seek new supplies whenever such supplies are available, and we think that ought to be encouraged. Our view is, of course, that excepting in so far as gas is furnished between the two groups, that is, the Southern California-Midway on the one hand and the Los Angeles-Southern Counties on the other, with that exception, the whole matter of retail and wholesale rates is more a matter of bookkeeping than anything else, anyway. So far as the stipulation that was being discussed this morning, that feature of the stipulation, I have gone over that very carefully and we have nothing further to suggest in that connection. We think it covers the ground and we favor

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the appointment of a gas administrator at this time, not with the idea that it is needed because of any shortage of gas, but because he is needed for the purpose of enabling these companies to get together and to facilitate the allocation of the gas from the standpoint of the use by the whole community. For that purpose we think a gas administrator who would act for all the companies is a very desirable institution. I think perhaps that fully explains our position at this time.

COMMISSIONER DECOTO: Now what is your desire, shall I hand this copy of the stipulation that I have to the reporter and let him copy it into the record as the stipulation of all the parties?

MR. WILLIAMS: The one that has been referred to since the Commission convened a few minutes ago.

MR. STEPHENS: May I make this further comment? Of course, we understand that this rate, as heretofore stated in the former hearing, is to be absorbed by the retail companies and that no application would be made for increase in the retail rate based on this increase of a cent and a half; and further, that it would not affect—of course, legally it would not—prevent the city of Los Angeles or any of the associated cities from making an application, when they see fit, that looked toward the affecting of the wholesale rate or the retail rate, or both of them.

COMMISSIONER DECOTO: Now, Mr. Reporter, will you read that statement of Mr. Stephens, and I want everyone to listen to it.

(Statement of Mr. Stephens read by the reporter.)

MR. OVERTON: Of course, if the Commission please, we take it that it is obvious that the city would not be precluded from making such application, because that is its constitutional right. And with respect to the other matter, our stipulation involved that precise situation; that is to say, that we would absorb that in the present retail selling rate for natural gas. Of course, coupled with that is the understanding that, should it become necessary on our part to file an application for increase in rates, this whole thing is at an end and then the matter of the cost of gas to us would be *de novo* before the Commission for further investigation and study.

MR. STEPHENS: At an end upon the rendering of a decision rather than upon the application, of course.

MR. OVERTON: Oh, yes, of course.

MR. GORDON: On the first page, Mr. Commissioner, I think perhaps Mr. Guillou had the same point I was going to suggest, and that is it says that the purpose of this stipulation applies to all stipulations made at this hearing this day. Now, it applies also to the stipulations made March 3d.

COMMISSIONER DECOTO: That is the understanding, is it not, Mr. Overton?

MR. OVERTON: Yes.

COMMISSIONER DECOTO: That is your understanding, Mr. Williams?

MR. WILLIAMS: Yes.

COMMISSIONER DECOTO: Yes, I thought that. Now, I would like all of you before we adjourn to take the original stipulation I have just handed to the reporter and compare it with your copy so that you may satisfy yourselves the stipulation you have in your hands is the one into which you have entered. Mr. Williams is pointing out that in line 13, on page 2 of the stipulation there is a comma after the word "Commission" which should be removed. Is that agreeable to all the parties that have stipulated?

MR OVERTON: Yes, if the Commission please. I don't think it makes any change one way or the other, myself.

COMMISSIONER DECOTO: Then the reporter will copy this.

(The stipulation referred to is as follows:)

"The purpose of this stipulation and all stipulations made at this hearing this day by any parties to the proceedings, is hereby declared to be the conserving of natural gas, thereby making it available for domestic and commercial and essential industrial consumption, for all times when it is needed for such purpose, and the securing of the closest cooperation and harmony of operation between any and all of the public utility companies that are parties to these proceedings, in supplying natural gas to their domestic and commercial and essential industrial consumers, and the securing to the consumers of the best possible service and the endeavor to

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maintain at all times the heat content of the natural gas to be served to the domestic and commercial and essential industrial consumers at not less than 1100 B.t.u. per c.f. except upon peak days when all the natural gas has been made available for domestic and commercial and essential industrial use to the exclusion of industrial use, it being definitely agreed between the public utility companies that they shall at all times furnish straight natural gas to domestic and commercial and essential industrial consumers so long as there is a sufficient quantity thereof for that purpose.

"That whether any consumer is in fact an essential industrial consumer within the meaning of this stipulation shall be a question of fact, the determination upon which by Railroad Commission shall be final.

"It is hereby stipulated that the Railroad Commission may, at its pleasure, appoint a gas administrator who shall have power to allocate to the various public utility companies that are parties to these proceedings, all natural gas of the said public utility companies according to the terms and conditions of Decision No. 17830, this stipulation and any further order or orders in these proceedings, and should any of the public utility companies that are parties to these proceedings fail and/or neglect to cooperate to the fullest extent with any, and/or all of the public utility companies that are parties to these proceedings, in endeavoring to maintain the heat content of the natural gas to be served to the domestic and commercial and essential industrial consumers at not less than 1100 B.t.u. per cubic foot, and/or in endeavoring to give the best possible service to the domestic and commercial and essential industrial consumers in the territory covered by the present decision in these proceedings, then, upon the filing of a complaint with the Commission by any of the parties to these proceedings, or upon the commencing of a proceeding upon its own motion by the Commission, a hearing on such complaint and/or proceeding by the Commission on its own motion, shall be had by the Commission, and if after such hearing the Commission, upon the evidence presented, shall be of the opinion that any one or more of the public utility companies that are parties to these proceedings had failed and/or neglected to cooperate to the fullest extent with any and/or all of the public utility companies that are parties to these proceedings in endeavoring to maintain the heat content of the natural gas served to the domestic and commercial and essential industrial consumers at not less than 1100 B.t.u. per cu. ft., and/or in endeavoring to give the best possible service to the domestic and commercial and essential industrial consumers in the territory covered by the present decision in these proceedings, the Commission shall, without further hearing, have the power and authority to change the wholesale rate for natural gas to be paid by any of the public utility companies that are parties to these proceedings to the offending party or parties to the rate now fixed by Exhibit A and Exhibit B in the present decision in these proceedings, and/or to appoint a gas administrator whose power and duties shall be to allocate and designate the use of all natural gas available to said utilities and designate the time or times when and the extent to which gas manufacturing plants of any and/or all such utilities shall be operated, and the orders and decisions of such gas administrator therein shall be final and binding upon the public utilities affected, and the Commission may further impose upon the offending party or parties such other penalty and/or condition as it shall deem meet and proper in the premises.

"Nothing herein contained shall be so construed as to prevent any of the parties hereto from applying to this Commission for a change in the rates provided by Decision No. 17830 and this stipulation shall terminate for all purposes in the event that the Commission or any tribunal shall render a decision that shall substantially change the rates now fixed by Decision No. 17830 of any of the utilities that are parties hereto.

"The salary and expenses of the gas administrator shall be borne by the companies in the manner to be directed by the Commission."

COMMISSIONER DECOTO: Now, is the matter finally submitted? It will stand submitted.

From these stipulations it appears that the proposed change in rates will not in any manner affect the consumer, being designed to effect a better operating agreement among the several companies.

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The benefits resulting from the proposed change will be twofold. In the first place, by the action of the companies receiving natural gas in passing that gas on to the distributing companies at much higher pressure the distributing companies will be enabled to lessen the cost of distribution. Secondly and of the greatest importance to the people of the city of Los Angeles, under these stipulations, it is the purpose of the gas companies to prevent as much as possible the excessive wastage of natural gas, which in the past has been blown into the air and thus dissipated. The companies propose to close wholly or partially certain dry gas wells, thus preserving that supply for the future use of their consumers and putting to practical use the gas that in the past has been blown in the air. This will enable the city of Los Angeles to preserve and enjoy for a much longer period the advantage that it now has through the low price of gas for domestic and industrial use.

ORDER.

Good cause appearing therefor;

It is hereby ordered, that Decision No. 17830 be and it is hereby changed as follows:

That the portion of Exhibit "A" reading as follows:

Rate.

For the first 40,000 M.c.f. each day from November 15th to April 14th, inclusive, and for all gas each day from April 15th to November 14th	14 cents per M.c.f.
For the next 10,000 M.c.f. each day from November 15th to April 14th, inclusive, plus one cent per M.c.f. for each 10 cents that the market price of fuel oil exceeds $1 per barrel, but not more than 25 cents per M.c.f.	20 cents per M.c.f.
For all over 50,000 M.c.f. each day from November 15th to April 14th, inclusive	25 cents per M.c.f.

Minimum.

Minimum daily bill—$4,200 for 30,000 M.c.f.

be changed to read as follows:

Rate.

For the first 40,000 M.c.f. each day from November 15th to April 14th, inclusive, and for all gas each day from April 15th to November 14th	15½ cents per M.c.f.
For the next 10,000 M.c.f. each day from November 15th to April 14th, inclusive, plus one cent per M.c.f. for each 10 cents that the market price of fuel oil exceeds $1 per barrel, but not more than 25 cents per M.c.f.	20 cents per M.c.f.
For all over 50,000 M.c.f. each day from November 15th to April 14th, inclusive	25 cents per M.c.f.

Minimum.

Minimum daily bill—$4,650 for 30,000 M.c.f.

That portion of Exhibit "B" reading as follows:

Rate.

For the first 12,000 M.c.f. each day from November 15th to April 14th, inclusive, and for all gas from April 15th to November 14th, inclusive	14 cents per M.c.f.
For the next 3000 M.c.f. each day from November 15th to April 14th, inclusive, plus one cent per M.c.f. for each 10 cents per barrel that the market price of fuel oil exceeds $1 per barrel but not more than 25 cents per M.c.f.	20 cents per M.c.f.
For all over 15,000 M.c.f. each day from November 15th to April 14th, inclusive	25 cents per M.c.f.

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Minimum.

Minimum daily bill $1,260 for 9000 M.c.f.

be changed to read as follows:

Rate.

For the first 12,000 M.c.f. each day from November 15th to April 14th, inclusive, and for all gas from April 15th to November 14th, inclusive	15½ cents per M.c.f.
For the next 3000 M.c.f. each day from November 15th to April 14th, inclusive, plus one cent per M.c.f. for each 10 cents per barrel that the market price of fuel oil exceeds $1 per barrel but not more than 25 cents per M.c.f.	20 cents per M.c.f.
For all over 15,000 M.c.f. each day from November 15th to April 14th, inclusive	25 cents per M.c.f.

Minimum.

Minimum daily bill $1,395 for 9000 M.c.f.

In all other respects the said decision shall remain unchanged.

This order shall take effect ten days after the filing of dismissals of the applications for rehearing herein, by all the parties that have filed a petition for rehearing herein.

Upon this opinion and order becoming effective, the Commission will appoint a gas administrator in accordance with the stipulations on file herein.

Dated at San Francisco, California, this twenty-fifth day of May, 1927.

DECISION No. 18404.

IN THE MATTER OF THE APPLICATION OF J. W. TREFRY, FREIGHT TRAFFIC MANAGER FOR AND IN BEHALF OF THE LOS ANGELES STEAMSHIP COMPANY, FOR AN ORDER AUTHORIZING CANCELLATION OF CERTAIN FREIGHT RATES NAMED IN LOS ANGELES STEAMSHIP COMPANY'S JOINT FREIGHT TARIFF No. 12, C. R. C. No. 17.

Application No. 13523.

IN THE MATTER OF THE APPLICATION OF NELSON STEAMSHIP COMPANY FOR AN ORDER AUTHORIZING CANCELLATION OF CERTAIN FREIGHT RATES NAMED IN ITS JOINT FREIGHT TARIFF No. 10, C. R. C. No. 4.

Application No. 13540.

Decided May 25, 1927.

RATES—FREIGHT—CARRIER BY WATER.—Authority granted applicants to cancel so-called "Red Ball" fast freight and store door delivery service, same being found noncompensatory.

Hugh Gordon, for Applicants.
R. S. Sawyer, for Associated Jobbers of Los Angeles.
H. R. Brashear, for Los Angeles Chamber of Commerce.
H. F. Hageman, for Riesener Chocolate Company, San Francisco, Protestant.

BY THE COMMISSION.

OPINION.

The issues involved in these proceedings being similar, and the evidence submitted having been, by stipulation, made a part of the

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record in each proceeding, they will be disposed of in one decision and order.

Applicants are seeking authority under section 63 of the Public Utilities Act for permission to cancel certain class and commodity freight rates applicable between San Francisco and Los Angeles, published in Los Angeles Steamship Company's Joint Freight Tariff No. 12, C. R. C. No. 17, effective February 16, 1926, and Nelson Steamship Company's Tariff No. 10, C. R. C. No. 4, effective December 6, 1926. The Pacific Electric Railway Company and the California Truck Company are parties to the former mentioned tariff and the Los Angeles and San Pedro Transportation Company is a party to the last mentioned tariff, in connection with the movement between Los Angeles harbor and Los Angeles. The service is commonly referred to as the Red Ball fast freight, also as the store door delivery service.

The applicable rates after cancellation will be the rates published in Pacific Coastwise Freight Tariff Bureau Tariff No. 1, C. R. C. No. 1.

A public hearing was held before Examiner Geary at Los Angeles April 19, 1927, and the proceedings having been duly heard and submitted are now ready for an opinion and order.

The tariff issued by the Los Angeles Steamship Company is most comprehensive, therefore the rates and rules published therein will be used for illustrative purposes. Item 110 defines Red Ball service as follows:

> Red Ball freight service is an expedited service applying from pick-up address at San Francisco, Cal., or terminal of the Los Angeles Steamship Co. (Pier 7), San Francisco, Cal., to delivery address at Los Angeles, Cal.; and from pick-up address at Los Angeles, Cal., or terminal of the California Truck Co. (Mill and East Sixth Streets), Los Angeles, Cal., to delivery address at San Francisco, Cal., as provided for herein.

The city of Los Angeles is divided into four delivery zones, as described in Rule No. 60, and separate rates are provided. San Francisco city and county is embraced in one delivery zone.

The following is a statement of the first four class rates now in effect:

Class Rates in Cents Per 100 Pounds.

Between San Francisco and		*1st*	*2d*	*3d*	*4th*
Los Angeles	(1)	80	65	57	50
Zone 1	(2)	90	75	67	60
Zone 2	(2)	99	84	76	69
Zone 3	(2)	104	89	81	74
Zone 4	(2)	106	91	83	76

(1) Applicable via Nelson Steamship Company, between Pier 24, San Francisco, and Los Angeles, including delivery at Los Angeles

(2) Basis No. 1 scale applicable via Los Angeles Steamship Company between Pier 7, San Francisco, and Los Angeles, including delivery at Los Angeles.

The other sections of Basis No. 1 and Bases Nos. 2, 3 and 4 provide higher rates dependent upon the service and the commodity.

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The tariff of the Los Angeles Steamship Company also contains pick-up and delivery less than carload commodity rates on cotton bags, dry batteries, cash registers, empty packages, citrus fruit, dried fruit, fresh vegetables, cotton piece goods, drugs, medicines, toilet preparations and envelopes, considerably higher than the less than carload commodity rates published in Pacific Coastwise Freight Tariff Bureau Tariff C. R. C. No. 1 applicable from San Francisco piers to the freight terminals in Los Angeles.

The preponderance of freight is subject to first and fourth class rates, and the Red Ball rates applicable via Los Angeles Steamship Company are from 20 to 36 cents per hundred higher than those published in Pacific Coastwise Freight Tariff Bureau Tariff C. R. C. No. 1, for terminal services only.

It was stipulated at the hearing that the records in Application No. 13086, Decision No. 17506, October 21, 1926, should be made a part of this proceeding. In that application the water carriers operating between northern and southern California ports and by water and rail to the city of Los Angeles were authorized to readjust rates, rules and regulations and to publish them in a consolidated tariff, this upon the testimony that the applicants had suffered severe financial losses in the operation of the vessels between San Francisco and Los Angeles.

The Red Ball freight service was first inaugurated by the Los Angeles Steamship Company, February 16, 1926, primarily to expedite the movement of pick-up and delivery package freight, but in actual practice it was an express service in positive competition with the established express companies. A witness for the Los Angeles Steamship Company testified that the Red Ball freight averaged 40 tons per voyage during the month of June, 1926, that the service had been extensively advertised and actively solicited, but the anticipated increases in tonnage had not materialized, in fact it decreased to an average during December, 1926, of 30 tons per voyage; that the cost of rendering the service for the small tonnage secured was excessive and resulted in a burden on other traffic; that approximately 80 per cent of the Red Ball freight was merely a diversion from the less than carload traffic, and that tests for fifteen months proved the public would not patronize this service sufficiently to make it pay its own way.

From exhibits presented at the hearing it was shown that the Los Angeles Steamship Company's expenses for handling Red Ball freight in excess of the expense of handling ordinary freight averaged $785.20 per month. The additional revenue received averaged $114 per month, therefore the average monthly additional expense exceeded the additional revenue by $671.20.

The rates applicable by the Nelson Steamship Company, which does not furnish an expedited service, are lower than those by the Los

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Angeles Steamship Company, and were established in 1926 to meet the store door delivery rates of the White Flyer Line, the services of the two companies being somewhat similar. The Nelson Steamship Company handled 3545 tons of freight, south bound, during the period December 8, 1926, to April 13, 1927, inclusive. The revenue received for the transportation of this freight was $1,418 greater than would have obtained under the regular freight rates, while the expenses in handling and the divisions allowed connecting carriers were $5,672, resulting in a loss of $4,254.

Witnesses for applicants representing the McCormick Steamship Company and the Pacific Steamship Company, the competing lines, testified their companies had not published the store door delivery rates because an investigation developed the fact that the service could not be profitable, also there was not a sufficient public demand at compensatory rates.

Prior to the hearing some twenty-five letters were mailed the Commission urging the continuation of the service upon the grounds that the present arrangement was more convenient than the regular freight service, particularly in the matter of quick deliveries and the prepaying all freight charges. However, only two witnesses gave testimony; one witness was more concerned with the rates on the commodity handled by his firm betwen the Atlantic seaboard and Pacific coast points than in the rates between San Francisco and Los Angeles, the other witness based his contention mainly upon the fact that the privilege of prepaying all charges to store door delivery was a convenience and a necessary service. An analysis of the letters by applicant's witness, however, revealed the fact that only a small percentage of the protestants were regularly using the store door delivery service, and although no objection was made to the letters being a part of the record, attorneys for applicants maintained that because they had no opportunity to cross-examine complainants the communications could have but small value.

At the time the store door delivery rates first went into effect there were six common carrier steamer lines in operation between San Francisco and the Los Angeles ports, viz: the Los Angeles Dispatch, White Flyer, Los Angeles Steamship Company, Nelson Steamship Company, Pacific Steamship Company and the McCormick Steamship Company. The rates were published by the first four companies in the order named, but never by the last two companies.

The Los Angeles Dispatch and the White Flyer lines were unable to operate at a profit and both of these services have been discontinued.

After a careful consideration of the evidence in this proceeding and a study of the exhibits we are of the opinion and find that the so-called Red Ball fast freight and store door delivery service is being operated at a loss; is a burden on other traffic; that there has not been shown a

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sufficient public demand or necessity for the service; and that the rates published in Los Angeles Steamship Company's Joint Freight Tariff No. 12, C. R. C. No. 17, and Nelson Steamship Company's Joint Freight Tariff No. 10, C. R. C. No. 4, do not produce sufficient revenue to justify their continuance. The application to cancel the rates will be granted.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission fully advised, and basing its order on the findings of fact as set forth in the preceding opinion;

It is hereby ordered, that the Los Angeles Steamship Company and Nelson Steamship Company be and they are hereby authorized, upon notice to this Commission and to the general public by not less than twenty days' filing and posting, to cancel the rates as set forth in the applications and published in Los Angeles Steamship Company's Joint Freight Tariff No. 12, C. R. C. No. 17, and Nelson Steamship Company's Joint Freight Tariff No. 10, C. R. C. No. 4.

Dated at San Francisco, California, this twenty-fifth day of May, 1927.

DECISION No. 18407.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC MOTOR TRANSPORT COMPANY FOR AUTHORITY TO SELL AND ISSUE ONE HUNDRED SHARES OF ITS CAPITAL STOCK.

Application No. 13719.

Decided May 25, 1927.

SECURITIES—STOCK—TO ISSUE.—Application granted.

E. J. Foulds, for Applicant.

BY THE COMMISSION.

OPINION.

In the above entitled matter Southern Pacific Motor Transport Company, a corporation, asks permission to issue and sell one hundred shares of its capital stock for $100 a share and to use the proceeds for the purchase of equipment and for the acquisition of property and for other capital purposes.

The record shows that Southern Pacific Motor Transport Company was organized under the laws of the State of California, on or about April 18, 1927, by those in control of the affairs of Southern Pacific Company for the purpose of providing a coordinated motor bus service in connection with its rail line operations by establishing such service where it is thought rail operations can not be maintained and, where

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conditions justify, by replacing existing rail service. It appears that applicant proposes to operate both within and without the State of California. It is of record that all of the stock which applicant will issue, except shares to qualify its directors, will be purchased by the Southern Pacific Company.

The applicant corporation was organized with an authorized capital stock of 10,000 shares, without nominal or par value. It asks permission, at this time, to sell one hundred shares for cash for $100 each and in support of its request alleges that it will be called upon forthwith to expend in excess of $10,000 in the purchase of equipment and property. The testimony herein shows that motor bus operations in Salem and in Eugene, Oregon, and between Santa Cruz and Boulder Creek, California, will be acquired immediately. It is reported that Southern Pacific Company is now conducting the Salem and Eugene operations, using eleven twenty-five passenger White busses and three twenty-nine-passenger Mack busses, having an aggregate estimated depreciated value of $81,000, and it appears that the Santa Cruz-Boulder Creek operations recently have been purchased under authority granted by Decision No. 18194, dated April 7, 1927, by T. B. Wilson, applicant's general manager, who plans in turn to transfer them to applicant. In this service it is proposed to place a new twenty-five-passenger stage.

There is no application at present before this Commission requesting authority to transfer these operations from T. B. Wilson to applicant and we do not believe that we can authorize the use of any of the proceeds to be received from the sale of the one hundred shares of stock to pay for such operations or for equipment to be used therein until the transfer has been so requested and authorized. The order herein, therefore, will direct the use of the stock proceeds to pay organization costs and to finance in part the cost of acquiring the properties which applicant will use in its operations in Salem and in Eugene, Oregon.

ORDER.

Southern Pacific Motor Transport Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of stock is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern Pacific Motor Transport Company be and it hereby is authorized to issue and sell, for cash at not less than $100 a share, one hundred shares of its capital stock and to use the proceeds to pay organization expenses and to finance in part

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the cost of acquiring the properties, referred to in the foregoing opinion, now used by the Southern Pacific Company in the motor bus operations in, and in the vicinity of, Salem and Eugene, Oregon.

It is hereby further ordered, that applicant shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds, as will enable it to file on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this twenty-fifth day of May, 1927.

DECISION No. 18411.

E. H. TRYON

vs.

SACRAMENTO NORTHERN RAILWAY, THE WESTERN PACIFIC RAILROAD COMPANY.

Case No. 2332.

Decided May 25, 1927.

RATES—RAILROAD—WOOL—REPARATION.—Carriers directed to refund to complainant all charges collected in excess of 32 cents per 100 pounds for the transportation of four carloads of wool forwarded from Colusa to Stockton during March, 1926.

BY THE COMMISSION.

OPINION.

Complainant is a copartnership composed of L. H. and A. I. Tryon, doing business under the firm name and style of E. H. Tryon, with its principal place of business at San Francisco. By complaint filed March 2, 1927, and as amended May 2, 1927, it is alleged that the rate charged on four carloads of wool moved from Colusa to Stockton during March, 1926, was excessive to the extent that it exceeded a rate of 32 cents.

Reparation only is sought. Rates are stated in cents per 100 pounds. Colusa is on the Sacramento Northern; Stockton is on the Western Pacific and the distance via route shipments moved is 111 miles. Both points are also on the line of the Southern Pacific Company. The distance via that line is 119 miles.

The applicable charges were based on a combination rate of 41 cents, made 11½ cents to Marysville plus 29½ cents beyond. Concurrently there was a rate of 32 cents maintained by the Southern Pacific Company and published in its Tariff 730-C, C. R. C. 2904, applicable from and to the points involved. Effective January 17, 1927, defendants

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established a joint commodity rate of 29½ cents published in Supplement 24 to Pacific Freight Tariff Bureau Tariff 34-K, C. R. C. 372. This same rate was published by the Southern Pacific Company. Complainant bases its plea for reparation upon the rate of 32 cents in effect via the Southern Pacific Company at time of movement, which rate is admitted to be reasonable, distance and operation conditions considered.

Defendants admit the allegation of the complaint and have signified a willingness to make reparation adjustment; therefore, under the issues, as they now stand, a public hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assailed was unreasonable to the extent it exceeded a rate of 32 cents. We further find that complaintant paid and bore the charges on the shipments involved in this proceeding and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Sacramento Northern Railway and The Western Pacific Railroad Company according as they participated in the movement be and they are hereby authorized and directed to refund to complainant, E. H. Tryon, all charges they may have collected in excess of 32 cents per 100 pounds on the shipments involved in this proceeding and forwarded from Colusa to Stockton during March, 1926.

Dated at San Francisco, California, this twenty-fifth day of May, 1927.

DECISION NO. 18412.

IN THE MATTER OF THE APPLICATION OF MOUNT TAMALPAIS AND MUIR WOODS RAILWAY FOR AN ORDER AUTHORIZING IT TO ABANDON THE OPERATION OF THE "LEE STREET LOCAL."

Application No. 11761.

Decided May 25, 1927.

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ABANDONMENT—SERVICE—STREET RAILWAY.—Application granted.

Thomas, Beedy and Presley, by *William Thomas*, for Applicant.
H. C. Symonds, for Town of Mill Valley and for interested citizens, Protestants.

BY THE COMMISSION.

OPINION.

Mount Tamalpais and Muir Woods Railway, a corporation, has petitioned the Railroad Commission for an order authorizing the abandonment of service on its "Lee street local" line, operated from Northwestern Pacific station in the town of Mill Valley to the station of Lee street, a distance of approximately 1.12 miles.

Public hearings on this application were conducted by Examiner Handford at San Francisco, the matter was duly submitted following the filing of briefs, and is now ready for decision.

Applicant alleges that the operation of its Lee street local service has been conducted at a material loss; that changes in schedules and rates of fare have been made from time to time in an endeavor to eliminate the operating loss; and that the line has steadily lost patronage in spite of the efforts of applicant to render effective service.

Exhibits filed as a portion of the application herein show, in elaborate detail, the revenues and expenses of the Lee street local operation (1) on the basis of actual out-of-pocket costs and (2) on the basis of operating costs including maintenance of track and roadway, proportion of general expense, fixed charges, interest and taxes. Other exhibits show the receipts and expenditures resulting from the operation of the entire line of applicant.

From these exhibits we have abstracted the following tabulation showing the revenues derived from the "Lee street local" operation and the expense of same, the latter figures including only the direct operating charges with no allowance for superintendence, track and roadway maintenance, general expense, depreciation, taxes or any return on the investment:

Year	*Revenue*	*Operating expenses*	*Loss*
April 1 to Dec. 31, 1920	$2,789 05	$2,500 25	$288 80*
1921	3,511 50	4,124 00	612 50
1922	3,153 55	3,369 40	215 85
1923	2,233 75	2,714 02	480 27
1924	1,898 78	3,136 87	1,238 09
1925	1,600 70	4,161 70	2,561 00
Jan. 1 to May 31, 1926	522 20	1,085 92	563 72
Totals	$15,709 53	$21,092 16	$5,382 63

*Indicates gain.

From the above it appears that not alone has there been a substantial loss, amounting to $5,382.63 during the six-year period but also that the patronage has resulted in a decrease in revenue from the year 1921 as

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compared to the year 1925 of 54.41 per cent, operating expenses for the two years remaining practically the same.

The matter of the discontinuance of the "Lee street local" service has heretofore been considered by the Commission in the following proceedings:

Decision No. 2944 on Application No. 1898, decided November 30, 1915. (C. R. C. No. 8, 552.)

Decision No. 4927 on Application No. 3272, decided December 6, 1917. (C. R. C. No. 14, 670.)

Decision No. 6385 on Application No. 4262, decided June 5, 1919. (C. R. C. No. 16, 843.)

Decision No. 7165 on Application No. 5211, decided February 27, 1920. (C. R. C. No. 17, 838.)

In the applications Nos. 1898 and 3272, *supra,* the discontinuance of all service of applicant was sought during the winter seasons of each year, and the Commission found in its decisions that the "Lee street local" service should be maintained, although permitting the discontinuance of the main line, or mountain, service during the periods for which authority was sought. In Application No. 4262 the Commission found that no showing had been made as to rearrangement of schedules, plans for the reduction of schedules or application for increased rates, which might have enabled operation to be more economically conducted, and denied the application. In Application No. 5211, the Commission authorized applicant to discontinue the carrying of local passengers on its mountain trains between Mill Valley and Lee street, and granted permission to increase fares and reduce schedules on the "Lee street local" line. All the foregoing decisions contain much data as to the history and development of this local service and it would serve no useful purpose to restate the data herein.

The granting of the application is protested by the town of Mill Valley and by residents served by the "Lee street local" line.

A. M. Whittle, A. J. Penfield, G. E. Chapin, Mrs. Flora R. Hawkins and H. C. Symonds, all patrons of the local line, testified in behalf of the protestants, in effect that the population along the line had consistently increased since 1921; that the service now rendered was a considerable improvement over that formerly rendered, for which improvement a change in management was responsible; that school children would be deprived of regular transportation service and residents would be inconvenienced during inclement weather if the service were to be discontinued; that there was no substitute service available; and that property values in Blythedale Canyon would be depressed if a discontinuance of service were to be authorized. Wit-

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nesses admitted that the line was not heavily patronized notwithstanding that an improvement in service had been observed, one protesting witness not using the line personally but finding it to be of advantage to his family. The privately owned automobile was stated by some of the witnesses to be the principal cause for the lack of local line patronage, there being no competing jitney or automobile stage service.

Counsel for protestants contends that, by reason of the main line of applicant being operated at a deficit although serving nonoperative property which is profitable, the instant application should have included a request for the discontinuance of service upon the entire line; and that the patrons of the "Lee street local" should continue to receive service unless and until the entire unprofitable rail service shall have been authorized to be abandoned. The applicant is not before the Commission seeking authority to discontinue its main line service, which is now operated only during a portion of the year under authority obtained from this Commission in its Decision No. 2944 on Application No. 1898, and Decision No. 4927 on Application No. 3272. In both these decisions provision was made for the continuous operation of the "Lee street local" throughout the entire year. Previous applications for the relief of the deficits arising from the operation of this local service have been denied and the applicant, in compliance with the orders of the Commission has amended schedules, adjusted service and rates in an attempt to continue service. The record herein and the foregoing tabulations abstracted from exhibits show the public have not responded with patronage to an extent that the revenue is equivalent to the out-of-pocket operating expenses, and the volume of patronage is steadily decreasing.

We have given careful consideration to the evidence, exhibits and briefs of record in this proceeding. We conclude therefrom and hereby find as a fact that public convenience and necessity do not require the operation by applicant of its "Lee street local" line; that the revenue derived therefrom is insufficient to defray the out-of-pocket costs of operation; and that there appears no possibility of increased traffic which would justify continued operation.

ORDER.

Public hearings having been held on the above entitled application, the matter having been duly submitted upon the filing of briefs, the Commission being now fully advised and basing its order on the conclusions and findings of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that applicant Mount Tamalpais and Muir Woods Railway, a corporation, be and the same hereby is authorized to discontinue the operation of its so-called "Lee street local" service

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between the station of the Northwestern Pacific Railroad in Mill Valley to the station of Lee street; provided, however, that prior to the discontinuance of service notices advising the public of such discontinuance shall be posted at all stations affected and in all cars operated on said local line at least ten days prior to the date of discontinuance as herein authorized, and to file a copy of said "Notice of discontinuance" with this Commission. Applicant is also hereby directed to file cancellation of all tariffs and time schedules affecting said "Lee street local" service in accordance with the provisions of this Commission's Tariff Circular No. 2.

The effective date of this order is hereby fixed as twenty days from the date hereof.

Dated at San Francisco, California, this twenty-fifth day of May, 1927.

DECISION No. 18414.

IN THE MATTER OF THE APPLICATION OF ED FLETCHER, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF SHERMAN WATER COMPANY, OPERATING AS A PUBLIC UTILITY; JAMES K. DIEBOLD, A SINGLE MAN, AND CITY OF BEVERLY HILLS, A MUNICIPAL CORPORATION OF THE STATE OF CALIFORNIA OF THE SIXTH CLASS, FOR PERMISSION TO MAKE CONTRACTS, TO LEASE AND TRANSFER PROPERTY, AND TO MAKE AND ENTER INTO OPERATIONS FOR THE SALE OF PROPERTY AND FOR AN ORDER APPROVING THE FORM OF LEASES, CONTRACTS AND OPTIONS.

Application No. 13659.

Decided May 27, 1927.

TRANSFER—WATER UTILITY—CONTRACT—TO EXECUTE.—Application granted.

Ed Fletcher, for Sherman Water Company.
Lovett, Hervey and Scott, by W. W. Lovett, for Beverly Hills.
J. M. McCroskey, for James K. Diebold.

BRUNDIGE, *Commissioner*.

OPINION.

In this proceeding joint application is made by Ed Fletcher, doing business under the firm name and style of Sherman Water Company operating a public utility; James K. Diebold, a single man, and city of Beverly Hills, a municipal corporation, for an order of this Commission authorizing the execution of certain contracts, leases and options particularly described and attached to the application and marked as Exhibits "1," "2," "3," and "4."

A public hearing in this matter was held before Commissioner Brundige at Los Angeles, after due notice thereof had been given to all interested parties.

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The record in this matter shows that Ed Fletcher, and certain associates, are the owners of a certain public utility water distribution system situated in the vicinity of Sherman, Los Angeles County, and that said properties are operated under the fictitious firm name of the Sherman Water Company. It appears that at the present time the water company is obtaining its source of supply under a verbal lease from the owners of certain wells known as the Sherman wells. The Sherman Water Company now proposes to enter into an agreement with James K. Diebold, whereby the latter will supply water for twenty years in sufficient quantities to the former for domestic, agricultural, fire protection, manufacturing, municipal public uses and such other uses for which water is now being supplied by the company. Under this agreement the water is to be supplied from the so-called Sherman wells, which properties are to be acquired by James K. Diebold preliminary to the execution of the proposed agreement. This agreement is referred to in the application as Exhibit No. "1."

It is further proposed that James K. Diebold, after having obtained title to the properties known as the Sherman wells, will also enter into a so-called "water lease" agreement with the city of Beverly Hills. Under this agreement James K. Diebold will lease to the city the said properties for a period of twenty years under definite terms and conditions, one of which provides that the lessee shall deliver to the Sherman Water Company the water which Diebold proposes to obligate himself to deliver to that company under the contract referred to above as Exhibit No. "1." As a consideration for delivery of this water to the water company, the lessor will pay to the city a price agreed upon in the water lease.

This proposed water lease is referred to in the application as Exhibit No. "2" and is made a part of the application.

Upon the execution of the two agreements above referred to, it is proposed to execute a so-called "Option agreement." Under this agreement the city of Beverly Hills is to be given an option to purchase, under definite terms and conditions, properties comprising the Sherman wells, and the properties of the Sherman Water Company. This option is to be given by James K. Diebold and Ed Fletcher. The form of the option agreement proposed to be used by the parties is referred to as Exhibit "3" in the application.

It is further proposed that an agreement be entered into between the city of Beverly Hills and James K. Diebold whereby the former agrees to purchase certain personal property owned by the latter, which is now located upon the properties known as the Sherman wells. The agreement which is proposed to be used in this regard is referred to in the application as Exhibit No. "4."

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Subsequent to the execution of the four above referred to agreements, it is contemplated that James K. Diebold will transfer all of the said "Sherman water properties," subject to the above mentioned contracts, to said Title Insurance and Trust Company to be held by it as trustee for Ed Fletcher, S. H. Woodruff, W. C. Davis and H. E. Downing.

It is the prayer of the application that an order be issued by this Commission authorizing James K. Diebold to procure title to all of the properties described in said lease referred to in the application as Exhibit "2," and also all properties described in Exhibit "B" attached to said lease marked Exhibit "2," and authorized the execution of the four agreements above referred to as Exhibits "1," "2," "3," and "4."

No protest was filed to the granting of this application and it appears that the public interest will be served by granting the authority sought herein. The following form of order is recomemnded.

ORDER.

Ed Fletcher, doing business under the firm name and style of Sherman Water Company, James K. Diebold, and the city of Beverly Hills having made a joint application to this Commission for an order authoring the execution of certain leases, contracts and options, referred to in the application as Exhibits "1," "2," "3," and "4," a public hearing having been held thereon, and the Commission being fully informed in the premises;

It is hereby ordered, that James K. Diebold is authorized to procure title to all of the properties described in the lease referred to as Exhibit "2" in the application herein, and also all properties described in Exhibit "B" attached to said Exhibit "2."

It is hereby further ordered, that Ed Fletcher, doing business under the firm name and style of Sherman Water Company, be and is hereby authorized to enter into certain contracts, leases and options in substantially the same form as proposed by applicant's Exhibits "1," "2," "3," and "4," which exhibits are hereby referred to and made a part of this order.

It is hereby further ordered, that subsequent to the execution of said contracts, leases and options above referred to as Exhibits "1," "2," "3," and "4," James K. Diebold may transfer all of said Sherman Water properties, subject to said above mentioned contracts, to the Title Insurance and Trust Company to be held by it as trustee for Ed Fletcher, S. H. Woodruff, W. C. Davis and H. E. Downing.

The authority herein granted is subject to the following conditions:

1. Within ten days after the execution of the agreements herein authorized, Ed Fletcher shall file verified copies of said agreements with this Commission.

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2. In the event the city of Beverly Hills exercises the option to be given to it under the option agreement referred to above as Exhibit "3," the formal transfer of the title to the properties of the Sherman Water Company shall not become effective until authorized by order of this Commission.

3. The consideration involved and price paid by Ed Fletcher to James K. Diebold for water delivered by the city of Beverly Hills as provided for in the above referred to agreements, shall not be urged before this Commission or any other public body as a measure of value for rate fixing purposes.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of May, 1927.

DECISION NO. 18417.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY, A CALIFORNIA CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY COVERING AND AUTHORIZING THE CONSTRUCTION OF A SIXTEEN-INCH NATURAL GAS LINE EXTENDING FROM THE JUNCTION OF THE MIDWAY GAS COMPANY'S THIRTEEN-INCH VENTURA GAS LINE AND THE TWO ORIGINAL MIDWAY GAS COMPANY GAS LINES FROM TAFT AT THE POINT KNOWN AS CASTAIC JUNCTION TO A POINT IN THE COUNTY OF LOS ANGELES AT WEST GLENDALE, CALIFORNIA, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISE RIGHTS IN THE CITIES OF SAN FERNANDO, GLENDALE AND LOS ANGELES UNDER FRANCHISES APPLIED FOR BY APPLICANT.

Application No. 13555.

Decided May 31, 1927.

CERTIFICATE—GAS UTILITY—PIPE LINE—TO CONSTRUCT.—Application granted.

J. T. Reynolds, A. L. Cleveland, for Applicant.

SEAVEY, *Commissioner*.

OPINION.

In this application, Midway Gas Company asks the Railroad Commission of the State of California for an order certifying that public convenience and necessity require and will require the exercise by it of the rights and privileges of franchises granted by the cities of San Fernando, Glendale and Los Angeles and the construction of a certain gas pipe line.

Public hearing was held at Los Angeles on April 26, 1927, at which

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time testimony was introduced and the matter submitted. No one appeared to oppose the request of applicant.

It appears that applicant has constructed a 16-inch gas transmission line for the purpose of bringing additional quantities of natural gas from the Ventura oil fields to the Los Angeles basin. This gas line is a continuation into West Glendale of the line previously built by applicant between Ventura and Castaic Junction, the route traversed being more particularly described in the application. It is necessary to the operation of this gas transmission line that rights be exercised under the following franchises:

Ordinance No. 222—City of San Fernando, granted November 22, 1926.

Ordinance No. 1222—City of Glendale, granted November 8, 1926.

Ordinance No. 57232—City of Los Angeles, granted January 17, 1927.

Certified copies of the above franchises are attached to the application.

Applicant has filed with this Commission stipulations duly and legally passed by resolution of its board of directors to the effect that applicant, its successors or assigns, will never claim before the Railroad Commission or any court or other public body any value for the aforesaid franchises in excess of the actual cost thereof.

Public convenience and necessity require the construction, operation and maintenance of the line in question for purposes of transmission of gas and the exercise of rights and privileges under the related franchises. I therefore submit the following form of order:

ORDER.

Midway Gas Company having applied to the Railroad Commission of the State of California for a certificate of public convenience and necessity authorizing the construction, operation and maintenance of a certain gas line and the exercise of certain rights and privileges of franchise granted by the cities of San Fernando, Glendale and Los Angeles, public hearing having been held, the matter being submitted and now ready for decision:

The Railroad Commission of the State of California hereby certifies and declares that public convenience and necessity require and will require the construction, operation and maintenance for purposes of gas transmission of that certain pipe line more particularly described in Application No. 13555 and the exercise of such rights and privileges of franchise as are thereto necessary under Ordinance No. 222, city of San Fernando, Ordinance No. 1222, city of Glendale, and Ordinance No. 57232, city of Los Angeles.

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The authority herein granted shall be effective from and after the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco California, this thirty-first day of May, 1927.

DECISION No. 18418.

IN THE MATTER OF THE APPLICATION OF SWEETWATER WATER CORPORATION FOR AUTHORITY TO SELL ITS PROPERTIES AND TO DISCONTINUE PUBLIC UTILITY SERVICE, AND THE SWEETWATER WATER CORPORATION TO PURCHASE THE SAID PROPERTIES AND TO ASSUME THE SAID PUBLIC UTILITY SERVICE, AND TO ISSUE BONDS, PREFERRED STOCK AND COMMON STOCK IN PAYMENT FOR SAID PROPERTIES.

Application No. 13580.

Decided June 1, 1927.

TRANSFER—WATER UTILITY—TO SELL—SERVICE—TO DISCONTINUE.—Sweetwater Water Corporation authorized to transfer all its properties to The Sweetwater Water Corporation, and to discontinue public utility service.

SECURITIES—BONDS—STOCK—TO ISSUE.—The Sweetwater Water Corporation authorized to issue $1,000,000 of first mortgage 5½ per cent 25-year sinking fund gold bonds, $150,000 of 6 per cent cumulative preferred stock, and $750,000 of common stock in payment for the properties acquired. Application denied in so far as it relates to the issuance of 6 per cent bonds, and 7 per cent preferred stock, and the issue of $200,000 of bonds.

Charles De Y. Elkus, for The Sweetwater Water Corporation.
Philip Storer Thacher, for Sweetwater Water Corporation.

BY THE COMMISSION.

OPINION.

The Railroad Commission is asked to enter an order authorizing Sweetwater Water Corporation to transfer all of its properties to The Sweetwater Water Corporation and to discontinue public utility service; authorizing The Sweetwater Water Corporation to purchase the properties of Sweetwater Water Corporation, and to issue $1,200,000 of 6 per cent twenty-five-year first mortgage bonds, $150,000 of 7 per cent cumulative preferred stock and $750,000 of common stock and sell such bonds at not less than 93½ per cent of their face value and accrued interest and use the proceeds realized from the sale of said bonds or said bonds together with the preferred and common stock to pay for the properties of the Sweetwater Water Corporation.

Sweetwater Water Corporation was organized in 1920. By Decision No. 7202, dated March 2, 1920, the Commission authorized the company to issue $1,000,000 of common stock and $450,000 of 6 per cent serial bonds, 1921-1940, at not less than 95 and accrued interest. By Decision No. 15697, dated November 30, 1925, the Commission authorized the

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company to issue $100,000 of 6 per cent bonds due January 1, 1940, at not less than 98 and accrued interest. As of December 31, 1926, the company reports outstanding $1,000,000 of stock and $445,000 of bonds. The assets and liabilities of the company as of the same date are reported as follows:

Assets.

Fixed capital installed prior to January 1, 1913	$1,177,907 49
Fixed capital installed since December 31, 1912	482,277 46
Construction work in progress	1,042 48
Cash	5,198 82
Notes receivable	10,000 00
Due from consumers and agents	7,758 18
Miscellaneous accounts receivable	1,845 23
Material and supplies	31,779 26
Prepaid taxes	281 34
Prepaid insurance	268 04
Other prepayments	114 00
Unamortized discount on securities and expense	3,169 66
Other suspense	1,310 91
Total assets	$1,722,952 87

Liabilities.

Capital stock	$1,000,000 00
Funded debt	445,000 00
Notes payable	12,000 00
Audited vouchers and wages unpaid	20,284 85
Consumers' deposits	1,114 62
Miscellaneous accounts payable	15 25
Taxes accrued	
Interest accrued	8 00
Consumers' advances for construction	38,246 16
Donations in aid of construction	8,984 88
Reserve for accrued depreciation	36,413 62
Other reserves	236 97
Corporate surplus	160,648 52
Total liabilities	$1,722,952 87

Sweetwater Water Corporation serves a territory located in San Diego County, which territory comprises a small portion of the city of San Diego, all of the cities of National City and Chula Vista and a large unincorporated area in the vicinity. The territory served by the Sweetwater Water Corporation is reported to have a population of approximately 20,000.

The Sweetwater Water system secures its entire supply through the impounding of the discharge of the Sweetwater River and its tributaries and storing these waters in a reservoir of 31,000 acre-feet, or 10,000,000,000 gallons, capacity. This reservoir is formed by a concrete and rubble masonry dam of the arched gravity type, 700 feet long and 110 feet high from the lowest point of foundations to the siphon spillway lip, which corresponds to gauge height 90 feet. The dam is located in a gorge of the Sweetwater River approximately four miles east of the easterly limits of the cities of National City and Chula Vista. From the dam two transmission pipe lines of 24-inch and 30-inch diameter located

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respectively on the north and south sides of Sweetwater Valley lead in a westerly direction to National City and Chula Vista, and at the easterly limits of these cities merge into the distribution system which consists of 510,000 feet or 96 miles of pipe lines ranging from 30 inches to ¾ inch in diameter. It is reported that 4550 services ranging in diameter from ¾ inch to 6 inches are connected to the distribution system of which practically all are metered.

To insure against drought or other conditions tending to interrupt service, the corporation has drilled two wells on quarter section 109 of Rancho De La Nacion which can be equipped with pumps and connected to the pipe system without delay should the need arise. In addition to these wells, the corporation owns in fee fourteen tracts of land which it is claimed are of proven water-producing quality located in the Sweetwater Valley below the dam upon which wells can be drilled and pumps installed when required. The gross area supplied with water for all purposes is reported at approximately 6000 acres. The total water deliveries from 1922 to 1926 inclusive are reported as follows:

Year	*Total deliveries in acre-feet*	*Equivalent in million gallons per day*
1922	4,615	4.12
1923	5,339	4.77
1924	6,280	5.61
1925	5,774	5.16
1926	5,640	5.04
Totals	27,648	----
Averages	5,530	4.94

There has been filed in this proceeding as applicants' Exhibit "D" a report prepared by The Loveland Engineers, Inc. In Exhibit "D" the estimated reproduction cost new, the estimated reproduction cost new less depreciation (straight line basis) and the estimated original cost of the properties of the Sweetwater Water Corporation are reported as follows:

Account items	*Estimated reduction cost New*	*Depreciated*	*Estimated original cost*
Organization and preliminary expenses	$10,000 00	$10,000 00	$10,000 00
Franchises or operative rights	5,000 00	5,000 00	589 00
Water rights	250,000 00	250,000 00	250,000 00
Lands and rights of way	433,737 00	433,737 00	433,737 00
Buildings, structures and grounds	97,887 00	81,605 00	57,368 00
Sweetwater reservoir	202,188 00	1,007,998 00	664,272 00
Wells	1,425 00	1,181 00	1,375 00
Pumping equipment	1,175 00	1,116 00	1,124 00
Purification system	3,074 00	2,869 00	2,942 00
Transmission mains	407,433 00	192,024 00	283,758 00
Distribution mains	877,104 00	460,141 00	686,762 00
Tanks	3,793 00	3,698 00	3,631 00
Hydrants	13,484 00	9,881 00	9,286 00
Services	65,638 00	39,412 00	56,562 00

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Meters	$102,094 00	$74,176 00	$84,552 00
Miscellaneous distribution equipment	1,025 00	1,025 00	1,025 00
Office equipment, maps and records	8,024 00	8,024 00	8,024 00
Shop equipment	3,195 00	3,195 00	3,195 00
Automotive equipment	10,157 00	4,182 00	10,157 00
Materials and supplies	32,732 00	32,732 00	32,732 00
Subtotal	$3,529,165 00	$2,621,996 00	$2,611,012 00
Going concern value	200,000 00	200,000 00	200,000 00
Grand total	$3,729,165 00	$2,821,996 00	$2,811,012 00

The Loveland Engineers, Inc., have also calculated depreciation on a 6 per cent sinking fund basis. On this basis they would deduct $535,046 from the estimated reproduction cost new and $335,740 from the estimated original cost.

In connection with Application No. 6715 (rate proceeding) the Commission's engineering department as of December 31, 1920, estimated the then original cost of the properties of Sweetwater Water Corporation at $1,704,752. That appraisal included no allowance for water rights, no allowance for going concern value, no allowance for materials and supplies and included land at a value of $228,894. The net cost of additions from December 31, 1920, to December 31, 1926, are reported at $266,702 which, added to the estimated original cost, as reported on December 31, 1920, makes a total of $1,971,454. The estimated original cost of the properties as now reported by The Loveland Engineers, Inc., is $839,548 more than the estimated original cost reported on December 31, 1920, plus net additions. The principal reason for the differences is that the estimated original cost as of December 31, 1926, includes an allowance of $250,000 for water rights, the present value of the lands which is $198,796 in excess of the value of land included in the 1920 appraisal, an allowance of $200,000 for going concern value and an increase of $143,685 in the estimated cost of the transmission and distribution mains.

For the years from 1922 to 1926 inclusive the revenues and expenses of Sweetwater Water Corporation are reported by The Loveland Engineers, Inc., as follows:

Description	1922	1923	1924	1925	1926
Income Account:					
Operating revenues	$165,621 50	$180,110 85	$210,643 69	$197,758 65	$202,908 95
Nonoperating	6,975 67	8,157 13	8,505 92	6,719 20	9,092 22
Total revenues	$172,597 17	$188,267 98	$219,149 61	$204,477 85	$212,001 17
Operating expenses before depreciation	$63,797 46	$69,533 30	$71,930 97	$71,198 27	$63,061 97
Nonoperating expenses and deductions	3,066 46	2,418 73	2,463 46	2,558 47	2,158 70
Total expenses	$66,863 92	$71,952 03	$74,394 43	$73,756 74	$65,220 67
Net revenue before depreciation	$105,733 25	$116,315 95	$144,755 18	$130,721 11	$146,780 50
Depreciation calculated 6 per cent sinking fund basis	11,366 57	11,749 72	11,877 43	12,260 57	12,771 43
Net revenue after depreciation but before federal income tax	$94,366 68	$104,566 23	$132,877 75	$118,460 54	$134,009 07

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Sweetwater Water Corporation in its reports filed with the Railroad Commission included in operating expenses the following amounts for depreciation, 1922, $20,000; 1923, $26,359.10; 1924, $30,000; 1925, $30,000, and 1926, $30,000.

On the basis of original cost The Loveland Engineers, Inc., estimate depreciation accrued on the sinking fund method at $335,740. Interest at the rate of per cent on this amount is $20,144.40. In this connection it should be said that no depreciation was calculated on water rights, lands, going concern value, miscellaneous construction expenses and materials and supplies.

To acquire the properties of Sweetwater Water Corporation, The Sweetwater Water Corporation asks permission to issue $1,200,000 of 6 per cent twenty-five-year bonds, $150,000 of 7 per cent cumulative preferred stock and $750,000 of common stock.

Two reasons have been advanced for the transfer of the properties of Sweetwater Water Corporation to The Sweetwater Water Corporation. It is alleged that the stockholders of Sweetwater Water Corporation do not desire to invest any additional moneys in the properties, in order to extend the same, and further, that the present mortgage of Sweetwater Water Corporation provides only for a $600,000 bond issue, of which $550,000 have been issued. It is felt that the cost of extensions, additions and betterments of the water system can be financed more readily if the properties are transferred to a new corporation and that corporation permitted to execute a new mortgage. While such may be the case, we do not believe that it is in the public interest that the bond issue on these properties be increased from $550,000 (now $445,000 outstanding) to $1,200,000 and that the stock issue be decreased from $1,000,000 to $900,000.

It is reported that the net revenue before depreciation for 1926 was 2.04 times the interest on $1,200,000 and that the net revenue after depreciation for 1926 was 1.86 times bond interest. The projected net revenue for 1927 is reported at 2.22 times bond interest before depreciation and 2.04 after depreciation. It occurs to us that in proceedings of this kind too much emphasis is given to the number of times net earnings may exceed bond interest. While the estimated net revenue for 1927 is over twice the amount of interest on the proposed bond issue, the balance remaining after providing for depreciation and dividend on the proposed issue of preferred stock, will, if realized, be sufficient to pay a dividend of only 4.9 per cent on the proposed common stock; a condition which in our opinion is not conducive to securing a proper price for the bonds or a ready market for preferred and common stock.

We have considered the request of The Sweetwater Water Corporation for permission to issue stocks and bonds and believe that such request in so far as it involves the issue and sale of $1,200,000 of 6

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per cent twenty-five-year bonds at 93½ and the issue of $150,000 of 7 per cent cumulative preferred stock should not be granted. In our opinion the company should not issue more than $1,000,000 of bonds, such bonds to bear interest at 5½ per cent per annum and be sold for not less than 93½ and accrued interest. The preferred stock should bear cumulative dividends at not exceeding 6 per cent per annum. The proceeds from the bonds or the bonds themselves and the stock ($150,000 preferred and $750,000 of common) shall, subject to the redemption of the bonds of the old company, be delivered to the Sweetwater Water Corporation in payment for its properties, such properties to be free and clear of all liens and encumbrances. If the new company decides to assume the payment of the bonds of the old company, only $555,000 of the bonds herein authorized to be issued may be sold and delivered. Upon the cancellation of the $445,000 of bonds of Sweetwater Water Corporation, and the release of the mortgage of that company securing the payment of such bonds the remaining $445,000 of bonds may be issued, sold and delivered.

The Sweetwater Water Corporation has submitted a copy of its proposed mortgage and/or deed of trust. The instrument is in satisfactory form except in the following particulars: First, the Series A bonds should be limited to $1,000,000 (now $1,200,000); second, the remainder of the bonds ($4,000,000) may be authenticated by the trustee in amounts equal to not exceeding 60 per cent (now 75 per cent) of the cash cost or fair value, whichever is less, of property acquired or constructed; and third, the provisions of the mortgage, such as may be modified, should not be modified except with the consent of the holders of at least 80 per cent (now 75 per cent) of the outstanding bonds.

ORDER.

Sweetwater Water Corporation having applied for permission to sell its properties to The Sweetwater Water Corporation and thereafter to discontinue public utility service and The Sweetwater Water Corporation having asked permission to purchase said properties and issue $1,200,000 of first mortgage 6 per cent twenty-five-year bonds, $150,000 of 7 per cent cumulative preferred stock, $750,000 of common stock and execute a mortgage and/or deed of trust to secure the payment of an authorized bond issue of $5,000,000, a public hearing having been held before Examiner Fankhauser and the Commission having considered applicant's requests and being of the opinion that the Sweetwater Water Corporation should be permitted to transfer its properties and The Sweetwater Water Corporation should be permitted to issue $1,000,000 of first mortgage 5½ per cent twenty-five-year bonds, $150,000 of 6 per cent cumulative preferred stock and $750,000 of common stock and execute a mortgage and/or deed of trust as provided in this order;

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that this application in so far as it involves the issue of 6 per cent bonds and 7 per cent preferred stock should be denied without prejudice; that the money, property or labor to be procured or paid for by the issue of such stock and bonds is reasonably required by The Sweetwater Water Corporation and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income; therefore

It is hereby ordered, as follows:

1. Sweetwater Water Corporation may transfer on or before October 1, 1927, all of its properties (Exhibit H) to The Sweetwater Water Corporation and thereafter discontinue public utility service, provided that within thirty days after the transfer of such properties it file with the Commission a report covering its operations from January 1, 1927, to the date of the transfer of its properties.

2. The Sweetwater Water Corporation may execute a mortgage and/or deed of trust substantially in the same form as the mortgage and/or deed of trust filed with the Commission on May 16, 1927, provided said mortgage and/or deed of trust is modified, as indicated in the opinion which precedes this order, and provided further that the authority herein granted to execute a mortgage and/or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of such mortgage and/or deed of trust as to such other legal requirements to which said mortgage and/or deed of trust may be subject.

3. The Sweetwater Water Corporation may issue and sell on or before October 1, 1927, at not less than 93½ per cent of their face value and accrued interest $1,000,000 of first mortgage 5½ per cent twenty-five-year sinking fund gold bonds and deliver the proceeds received from the sale of such bonds or the bonds themselves, together with not exceeding $150,000 par value of 6 per cent cumulative preferred stock and $750,000 par value of common stock to the Sweetwater Water Corporation in payment for its properties free and clear of all encumbrances, provided that if The Sweetwater Water Corporation assumes the payment of the outstanding bonds of Sweetwater Water Corporation the amount of bonds which The Sweetwater Water Corporation may deliver in payment for the properties of the Sweetwater Water Corporation shall be reduced by an amount equal to the face amount of bonds assumed. Upon the payment of the bonds of Sweetwater Water Corporation by The Sweetwater Corporation, the latter may issue bonds in lieu of those assumed by it.

4. This application in so far as it involves the issue of 6 per cent bonds and the issue of 7 per cent preferred stock and the issue of $200,000 of bonds is hereby denied without prejudice.

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5. Within thirty days after the execution of the mortgage and/or deed of trust referred to herein The Sweetwater Water Corporation shall file with the Commission two certified copies of such instrument.

6. Within thirty days after the transfer of the properties herein authorized, Sweetwater Water Corporation shall file with the Railroad Commission a statement showing the date on which it sold and transferred its properties and the date on which it delivered possession of its properties to The Sweetwater Water Corporation.

7. The Sweetwater Water Corporation shall within thirty days after acquiring title to the properties of Sweetwater Water Corporation file with the Railroad Commission a copy of the deed under which it acquires and holds such title.

8. The authority herein granted to transfer properties and issue stock will become effective upon the date hereof. The authority to issue bonds will become effective when The Sweetwater Water Corporation has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $1,000.

9. The Sweetwater Water Corporation shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized to be issued and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this first day of June, 1927.

DECISION No. 18419.

IN THE MATTER OF THE APPLICATION OF SONOMA WATER AND IRRIGATION COMPANY FOR AUTHORITY TO AMEND RATES.

Application No. 12946.

Decided June 1, 1927.

RATES—WATER UTILITY—TO INCREASE.—After rehearing the Commission grants a slight increase in rates to applicant on condition that service conditions be improved.

Dudley D. Sales, for Applicant.
H. A. Postlewaite, City Attorney for City of Sonoma.
R. N. Barrett and *A. R. Grunsted*, for Consumers' League of Sonoma.

WHITSELL, *Commissioner*.

OPINION ON REHEARING.

On November 6, 1926, this Commission rendered its Decision No. 17579 in the above entitled proceeding establishing therein a revised and amended schedule of water rates to be charged for all water service rendered by Sonoma Water and Irrigation Company in and in the immediate vicinity of the city of Sonoma and in El Verano and Sonoma Vista in

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Sonoma County. Thereupon Sonoma Water and Irrigation Company applied to the Commission for a rehearing of the matter which was granted by an order issued November 26, 1926, with the result that the rates heretofore charged were continued in effect.

The petition for rehearing alleges in effect that the rates as established in said Decision No. 17579 are noncompensatory and insufficient to yield the amount of annual income which applicant is entitled to receive; that the rates so established will enable applicant to earn only 4.4 per cent interest on the value of its existing plant which was found by the Commission to be $60,000 for the purpose of this proceeding and only 3.1 per cent interest return on $85,000, which will be the value of the plant after applicant has expended the sum of $25,000 for improvements as ordered by the Commission. It is further alleged that, if the said schedule of rates should be made effective, applicant will be financially unable to expend any sums of money whatsoever for the improvement or rehabilitation of its water system.

The rehearing in this proceeding was held on January 14th, at Sonoma, after all interested parties had been duly notified and given an opportunity to appear and be heard. By stipulation entered into by all interested parties, the entire record of the previous hearings held in this matter was accepted as part of the evidence of the instant proceeding.

In support of its petition for increased rates, applicant submitted a detailed tabulation of the maintenance and operation expenses for the entire combined system as incurred for the year 1926 showing a total of $6,310, exclusive of depreciation, and giving the total actual revenues for 1926, under the existing rates, as $9,329, corrected for certain 1925 water bills not paid until the year 1926. An estimate of the maintenance and operation expenses for 1927 was also submitted showing an increase of approximately $1,400 over the total actual costs as set out above for 1926. This increase is attributable largely to raises in the salaries of certain field and office employees which were alleged by applicant to be necessary. Anaylsis of the above 1926 operating expenses shows that there has been included therein certain extraordinary items of expense incurred in connection with the present Railroad Commission proceeding, amounting to about $350. The fact that expenditures of this nature do not recur annually should be given consideration in connection with estimates of future annual operating costs.

Applicant estimated that the rate schedule as established by the Commission's Decision No. 17579, when applied to the water use of 1926, will produce only a net increase of $330 over the actual revenues obtained for that period. This small estimated increase in revenue over that produced by the rates at present in effect is due largely to the

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reduction in the present minimum monthly charge of $2 for both flat and metered rates in the city of Sonoma to a minimum charge of $1.50 for 5000 gallons or less. Analysis of the 1926 water use in the city of Sonoma indicates that about 44 per cent of the metered consumers used an average of less than the minimum allowance of 5000 gallons. It is to be noted that the system was being progressively metered during 1926 and, when entirely metered, the above percentage will very probably increase to over 50 per cent.

The protestants in behalf of the city of Sonoma complained of the inadequate and unsatisfactory service and water pressures that have existed in the town for a number of years and request relief from these conditions by improvements of the Sonoma city system. However, protest was made against any further increase in the rates for Sonoma over those heretofore fixed in Decision No. 17579 in this proceeding. Counsel for the city of Sonoma contended that no increase in rates would be necessary unless the other systems were combined with the Sonoma plant and objected to such a combination upon the grounds that it would result in placing most of the burden of the charges to produce the necessary revenues on the consumers of the city of Sonoma.

After a careful consideration and analysis of the additional and supplemental evidence introduced at this rehearing together with a review of all the evidence heretofore submitted, it appears that the facts and findings regarding the operations of this utility, as expressed in the opinion in the prior decision in this proceeding, have not been materially altered by any of the evidence presented on rehearing. Therefore, the sums of $6,200 for maintenance and operation expenses and $1,064 for the depreciation annuity as heretofore determined appear to be fair and reasonable and will be confirmed herein as proper allowances for such items to be used in connection with the rate base of $85,000 which includes the estimated cost of the proposed improvements to the system, estimated at $25,000, which applicant has agreed to install at once after the detailed plans thereof have been approved by the Commission.

From computations which are based on the 1926 water use, it is apparent that the schedule of rates of the form heretofore established in this proceeding will not produce the annual revenue required to return to applicant the necessary and reasonable annual charges of the system including a fair interest return on the rate base and therefore a readjustment of these rates is found to be necessary. It should be pointed out at this time that in applicant's original petition for an increased schedule of rates authority was asked to reduce the present monthly minimum charge in Sonoma from $2 to $1.50. Acting upon this suggestion, the Commission adopted the $1.50 minimum basic charge

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in the design of the rate schedule now under review and which has proved to be inadequate for reasons given above.

The evidence shows that for a number of years past the consumers on both the Sonoma city system and on the El Verano and Sonoma Vista systems have received more or less inadequate and inefficient service. The present management has indicated its intention to improve this condition not only by means of enlarging inadequate main and storage capacity, which it has agreed to commence at once, but also through adoption of more efficient operating methods. It is primarily the duty of utilities to deliver a sufficient supply of water under adequate pressure to meet the needs of its consumers and to maintain good service and applicant herein will be expected to take immediate steps to put this system in efficient and proper operating condition and to maintain continuous and adequate service at all times to its consumers.

The revised schedule of rates as set out in the following order has been designed and computed to return the necessary annual charges to the system including a return by way of interest on the investment which will be fair and reasonable under the circumstances.

ORDER ON REHEARING.

Sonoma Water and Irrigation Company, a corporation, having filed a petition for rehearing in the above entitled matter, a rehearing therein having been granted and a public hearing having been held thereon, briefs having been filed, the matter having been submitted and the Commission being now fully informed in the premises:

It is hereby found as a fact that the schedule of rates heretofore established in this proceeding for Sonoma Water and Irrigation Company, a corporation, by Decision No. 17579 of the Railroad Commission, issued November 6, 1926, is unjust and unreasonable in so far as it differs from the schedule of rates herein established and that the rates herein established are just and reasonable rates to be charged for the service rendered. And, basing its order upon the foregoing finding of fact and upon the further statements of fact contained in the opinion preceding this order;

It is hereby ordered, that Sonoma Water and Irrigation Company, a corporation, be and it is hereby authorized and directed to file with this Commission, within thirty days from the date of this order, the following schedule of rates to be charged for all water service rendered to its consumers in and in the vicinity of the city of Sonoma, El Verano and Sonoma Vista on and after June 1, 1927:

Regular Meter Rates.

Monthly Minimum Charges:	
⅝"x¾" meter	$2 00
¾" meter	2 50
1" meter	3 50
1½" meter	5 50
2" meter	8 00

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Each of the foregoing "Monthly Minimum Charges" will entitle the consumer to that quantity of water which the monthly minimum charge will purchase at the monthly quantity rates set out below:

Monthly Quantity Rates:

0 to 5,000 gallons, per 1,000 gallons	$0 40
5,000 to 10,000 gallons, per 1,000 gallons	25
10,000 to 25,000 gallons, per 1,000 gallons	20
All over 25,000 gallons, per 1,000 gallons	15

Summer Resort Rates.

Applicable only to service outside of Sonoma city system and particularly in the El Verano and Sonoma Vista Districts.

Annual charge payable in advance, entitling consumer to 3000 gallons of water each month for any period of six consecutive months $12 00

Where water is used in excess of the above allowance of 3000 gallons per month, the following schedule shall apply:

Monthly Quantity Rates.

0 to 3,000 gallons included in annual charge.	
3,000 to 10,000 gallons, per 1,000 gallons	$0 25
10,000 to 25,000 gallons, per 1,000 gallons	20
All over 25,000 gallons, per 1,000 gallons	15

Where water service is used for a period greater than the above six consecutive months, the regular monthly minimum charges and quantity rates shall apply; provided, however, that any consumer within the summer resort class may receive service under the regular schedule of rates by paying in advance the sum of $24, entitling such consumer to 5000 gallons of water per month for each of twelve consecutive months.

Fire Hydrants.

Owned and installed by city, county or fire district, each per month	$1 50
Owned and installed by the company, each per month	2 00

All other municipal service charged for at the regular meter rates.

It is hereby further ordered, that Sonoma Water and Irrigation Company, a corporation, be and it is hereby directed to file with this Commission within thirty days from the date of this order revised rules and regulations governing the service of water to its consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.

It is hereby further ordered, that Sonoma Water and Irrigation Company, a corporation, be and it is hereby directed to file with this Commission for its approval, within sixty days from the date of this order, detailed plans for the improving of its storage and distribution system facilities, said improved facilities to be installed and in proper operation on or before August 1, 1927.

It is hereby further ordered, that Decision No. 17579, dated the sixth day of November, 1926, shall remain in full force and effect except as modified herein.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of June, 1927.

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DECISION No. 18420.

PAN AMERICAN PETROLEUM COMPANY

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 2362.

Decided June 1, 1927.

RATES—ELECTRIC RAILROAD—GROUND CLAY.—Reparation awarded complainant in the amount of all charges collected in excess of 3½ cents per 100 pounds for the transportation of 18 carloads of ground clay from Los Angeles to Watson, August 8, 1925, to March 14, 1927.

BY THE COMMISSION.

OPINION.

Complainant, a corporation, organized under the laws of the State of California with its principal place of business at Los Angeles, is engaged in producing, refining and marketing petroleum oil and its products. By complaint filed May 4, 1927, it is alleged that the rates charged for the transportation of 18 carloads of ground clay weighing 1,609,220 pounds shipped during the period August 8, 1925, to March 14, 1927, inclusive, from Los Angeles to Watson were unreasonable to the extent they exceeded a rate of 3½ cents per 100 pounds.

An award of reparation is sought. Rates are stated in cents per 100 pounds.

The Class "C" rate of 7½ cents was lawfully applicable on the shipments moved prior to September 5, 1926. Subsequent thereto a commodity rate of 6 cents per 100 pounds was effective. Charges were assessed and collected on the shipments as follows: 332,340 pounds at 7½ cents; 189,000 pounds at 5 cents; 1,087,880 pounds at 6 cents.

The 5-cent rate charged on the two carloads weighing 189,000 pounds was not applicable on ground clay, and there is therefore an outstanding undercharge on those shipments.

Defendant voluntarily established, effective April 21, 1927, a rate of 3½ cents on crude or ground clay from and to the points involved.

Complainant bases its plea for reparation upon the lower rates subsequently established.

The following comparison of rates and earnings on clay in the same general territory and for distances comparable with that from Los Angeles to Watson is taken from a statement submitted by complainant:

From	*Rate, cents*	*Distance, miles*	*Rate per ton, mile*
Los Angeles to Watson	*7½	15.8	$0.09493
Los Angeles to Watson	*6	15.8	.07595
Los Angeles to Watson	*5	15.8	.06329
Los Angeles to Watson	†3½	15.8	.0443

*Rates charged. †Rates sought.

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From	*Rate, cents*	*Distance, miles*	*Rate per ton, mile*
Whittier Junction to Los Angeles	2½	11	$0.04545
Los Angeles to Glendale	2½	13	.03846
Gypsum to Riverside	3½	23	.03043
Gypsum to Colton	3½	30	.02333
Chester to Riverside	2½	19	.02632
Chester to Colton	2½	26	.01923
Corona to Colton	2½	21	.02381
Corona to Riverside	2½	14	.03571

The rate upon which reparation is sought compares favorably with rates as shown in the above tabulation on the same commodity for equidistant hauls between other points in southern California.

Defendant admits that the charges were unreasonable and has signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rates charged were unreasonable to the extent they exceeded the subsequently established rate of 3½ cents per 100 pounds. We further find that complainant paid and bore the charges on the shipments involved and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Pacific Electric Railway Company, be and it is hereby authorized and directed to refund unto complainant, Pan American Petroleum Company of Los Angeles, all charges it may have collected in excess of 3½ cents per 100 pounds on the shipments involved in this proceeding and forwarded during the period August 8, 1925, to March 14, 1927, inclusive, from Los Angeles to Watson.

Dated at San Francisco, California, this first day of June, 1927.

DECISION No. 18442.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO NORTHERN RAILROAD, A CORPORATION, FOR AN ORDER PERMITTING THE

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DISCONTINUANCE OF THE OPERATION OF ITS HAMILTON BRANCH BETWEEN THE CITY OF CHICO AND THE TOWN OF HAMILTON, IN THE STATE OF CALIFORNIA.

Application No. 4418.

Decided June 1, 1927.

ABANDONMENT—ELECTRIC RAILWAY—BRANCH LINE.—Application granted.

Heller, Powers and Ehrman, by *Sidney M. Ehrman* and *Jerome B. White*, for Applicant.

Frank Freeman, for Sacramento Valley Sugar Company, Hamilton Land Company, Protestants.

Daniel C. Murphy, for Phelan Estate, James D. Phelan, Alice Phelan, Sullivan Corporation and Mary L. Phelan, Protestants.

BY THE COMMISSION.

OPINION.

Sacramento Northern Railroad, a corporation, has petitioned the Railroad Commission for an order authorizing the discontinuance of its so-called Hamilton branch, a single-track line of railroad extending from the city of Chico, in the county of Butte, to the town of Hamilton, in the county of Glenn, a distance of 11.1 miles.

Public hearings on this application were held at San Francisco, at which evidence was received and the matter was submitted for decision.

Applicant alleges as justification for the desired authority that approximately half way between the city of Chico and the town of Hamilton the branch line crossed the Sacramento River; that said crossing consisted of a pile trestle with pontoon span and was temporary in its nature inasmuch as applicant was required to remove the trestle in December of each year on account of high water in the Sacramento River and pursuant to an order of the War Department of the United States; that applicant and its predecessor in interest has not operated the track on the west side of the Sacramento River since December, 1913; that applicant desires to permanently discontinue the operation of the Hamilton branch for the reason that during the winter of 1914 high water washed away over one mile of track on the west side of the Sacramento River and three-fourths of a mile of track on the east side of said river; that to successfully operate said Hamilton branch a drawbridge would have to be constructed over the Sacramento River, the cost of which would exceed $400,000; that said Hamilton branch offers but a small amount of freight and very few passengers for transportation and its operation has never yielded sufficient revenue to defray the expense of reconstruction, maintenance or operation.

J. B. Rowray, general manager of applicant corporation, testified that the line herein proposed to be discontinued, was operated during the season of beet harvesting each year; that during the month of June of each year a temporary trestle and pontoon bridge was constructed

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across the Sacramento River and the damage resulting to track from high water during the winter season was repaired; that sugar beets were handled from ranches east of the Sacramento River to the sugar factory at Hamilton City; that following the beet season passenger service was continued until December when the pontoon bridge and trestle approaches were required to be removed under the conditions of a yearly permit granted by the War Department of the federal government; that the last operation over the entire branch was in December, 1915; that the estimate of the expenditure necessary to properly rehabilitate the line, including a permanent drawbridge across the Sacramento River was $611,642; and that as the sugar factory at Hamilton was not to be operated there was no traffic offering which justified the rehabilitation of the line and its continued operation.

From the evidence of this witness and an exhibit filed the following data shows the revenue received on the Hamilton branch and the out-of-pocket expenses for the periods shown:

	Yearly Period.			
	1910	*1911*	*1912*	*1913*
Passenger and freight revenue	$13,356 90	$10,677 00	$12,014 45	$12,194 07
Out-of-pocket operating expenses	8,691 00	8,545 00	10,946 00	12,326 00
Net revenue	$4,665 90	$2,132 00	$1,068 45	*$131 93

*Loss.

If the total expenses, excluding taxes, were added, the branch line would have produced the following net revenue for the years considered:

1910	$2,340 90 profit
1911	360 00 loss
1912	1,805 55 loss
1913	4,537 93 loss

In the foregoing estimates of expense no consideration has been given to any return on the investment in the property.

The granting of the application is protested by Sacramento Valley Sugar Company, Hamilton Land Company, Estate of Jas. Phelan, James D. Phelan, Alice Phelan Sullivan Corporation and Mary L. Phelan.

An agreement between the Pacific Sugar Construction Company, Alta California Beet Sugar Company and Northern Electric Company, the latter being applicant's predecessor in interest, was filed as an exhibit; also certified copies of deeds covering the transfer of certain parcels of land for right of way and station purposes, such land transfers being made under the conditions of the agreement.

It is the contention of protestants' counsel that the abandonment of the Hamilton branch of applicant would greatly damage the Sac-

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ramento Valley Sugar Company and in the event an order should be made authorizing such abandonment, said order should require the reconveyance of the rights of way and other property heretofore conveyed to the applicant or its predecessors in interest under the terms of the agreement above referred to, and in the event of the order of abandonment being authorized containing such conditions the protest against its issuance is withdrawn.

We are of the opinion that the question of title to the property which was deeded to applicant's predecessors in interest under the terms of an agreement hereinabove referred to is not a matter within the jurisdiction of this Commission and that the transfer of same to the original grantees is a matter requiring adjudication by the civil courts.

From the record herein we are of the opinion and hereby find as a fact that the rehabilitation and continued operation of the Hamilton branch of applicant's railway is not justified or required by the public convenience and necessity, there being no traffic now offering, or to be offered in the future, which would justify the cost of rehabilitation of said branch line nor to defray the cost of its operation and maintenance.

ORDER.

Public hearings having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that applicant Sacramento Northern Railroad, a corporation, be and the same hereby is authorized to discontinue the operation of its line of railroad known as the Hamilton branch and located between the city of Chico, county of Butte, and the town of Hamilton, county of Glenn, and to cancel in conformity with the rules of this Commission, all tariffs of rates and all time schedules heretofore filed with this Commission and effective covering passenger and freight service on its Hamilton branch between said Chico and Hamilton and intermediate points.

Dated at San Francisco, California, this first day of June, 1927.

DECISION No. 18444.

IN THE MATTER OF THE APPLICATION OF THE HOVEY-BANDY CORPORATION FOR LEAVE TO ENCUMBER ITS PUMPING PLANT AND THE ADJACENT LAND.

Application No. 13406.

Decided June 1, 1927.

SECURITIES—NOTE—TO ISSUE.—Application of Hovey-Bandy Corporation to issue its one-year note for $2,500, with interest at 8 per cent per annum denied, as proceeds are to be used largely to pay operating losses.

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Cyrus A. Hovey, for Applicant.

BY THE COMMISSION.

OPINION.

The Hovey-Bandy Corporation asks permission to issue a one-year 8 per cent note for the sum of $2,500 and to secure the payment of such note by the execution of a mortgage or trust deed, on property to which reference is hereafter made.

The Railroad Commission by Decision No. 15596, dated November 6, 1925, in Application No. 11560, declared that public convenience and necessity require and will require that the Hovey-Bandy Corporation operate a public utility for the purpose of supplying water for domestic use to consumers located in Tract No. 8392, together with two small adjacent tracts, all located in Los Angeles County.

It is of record that the Hovey-Bandy Corporation has drilled a well and installed the necessary pumping equipment and constructed a pump house. The well and pumping plant and appurtenances are located on a tract of land fronting 100 feet on Curtis avenue with a depth of 150 feet, the location of such land being shown on Exhibit "A" filed in this proceeding. The well of the company has a depth of 450 feet, a diameter of 12 inches and is equipped with an automatic electric pump. The testimony shows that the value of the land is approximately $3,000 and that the cost of the well, pumping equipment and appurtenances cost $7,000, making a total investment of $10,000 in the pumping plant. In addition to the $10,000 invested in the pumping plant, approximately $20,000 has been expended in the laying of mains in the tract covered by the certificate granted in Decision No. 15596.

S. L. Rodgers, secretary of the Hovey-Bandy Corporation, testified that there was now due on the pumping plant $400 which is represented by an outstanding note. It is the intention of the corporation to borrow $2,500 to be represented by its one-year 8 per cent note to pay the balance due on the pumping plant and to provide itself with a fund to operate the plant until such time as the revenues from the utility business may be equal to the operating expenses. While several houses have been built upon the tract, the record shows that at the time of the hearing on this application, but one family, applicant's secretary, resided on the tract. At the hearing and subsequent thereto we have asked applicant to file with the Commission a copy of its proposed mortgage. Such instrument has not been filed.

We have considered applicant's requests and believe they should be denied without prejudice, for the reason, among others, that applicant desires to use a substantial part of the proceeds obtained from the issue of the note to pay operating losses.

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ORDER.

The Hovey-Bandy Corporation, having applied to the Commission for permission to issue a $2,500 note and execute a mortgage or trust deed, and public hearing having been held before Examiner Fankhauser, and the the Commission being of the opinion that this application should be denied without prejudice;

It is hereby ordered, that this application be and the same is hereby denied without prejudice.

Dated at San Francisco, California, this first day of June, 1927.

DECISION No. 18446.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA, FOR AN INCREASE OF ITS EXISTING RATES, AND TO ESTABLISH REASONABLE RATES FOR NATURAL GAS SUPPLIED TO ITS CONSUMERS IN ITS WESTERN DISTRICT.

Application No. 13477.

Decided June 1, 1927.

RATES—GAS UTILITY—SURPLUS NATURAL GAS.—Rates for industrial and commercial use, and commercial heating with surplus natural gas in applicant's western district adjusted to natural gas basis, superseding mixed gas rates heretofore in effect, and not altered when pure natural gas was substituted for mixed natural and artificial gas.

Leroy M. Edwards, for Applicant.
Jess E. Stephens, City Attorney, *Milton Bryan* and *J. L. Rennow*, Deputy City Attorneys, for the City of Los Angeles.
Chester L. Coffin, City Attorney, for the City of Santa Monica.
A. H. King, City Attorney for the City of Culver City.

SEAVEY, *Commissioner.*

SUPPLEMENTAL OPINION AND ORDER.

This Commission in its Decision No. 18009, dated February 21, 1927, authorized certain increased schedules to be filed in lieu of the schedules then applying for mixed gas service in applicant's western district. Applicant filed only that schedule designated as Schedule No. "A," applicable to general domestic and commercial service.

It now appears advisable to authorize applicant to file certain schedules differing slightly from those previously authorized, but not placed in effect, and which will more nearly conform to existing conditions.

Good cause therefore appearing,

It is hereby ordered, that

1. Decision No. 18009 be and the same is hereby amended as follows:

That the portion of Exhibit "A," designated as Schedules Nos. 3-B, 3-C, 3-D and 3-E, are hereby canceled.

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2. Southern Counties Gas Company of California be and it is hereby authorized, pending final determination in this matter, to charge and collect effective for all regular meter readings taken on and after the fifteenth day of June, 1927, the schedule of rates set forth in Exhibit "B," said exhibit being attached hereto and made a part hereof.

3. Southern Counties Gas Company of California file with this Commission on or before June 15, 1927, the schedule of rates herein authorized.

4. For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of June, 1927.

EXHIBIT "B."

SCHEDULE No. 3-A-A.

(Superseding Schedule No. 3-D.)

Surplus Commercial Service.

Applicable to commercial service for space and water heating and general use in apartments, hotels, restaurants and business buildings.
Natural Gas.

Territory.

Applicable to Western District including Santa Monica, Palms, Venice, Ocean Park, Culver City, Sawtelle and adjacent territory.

Rate.

70 cents per 1000 cubic feet.

Minimum Charge.

$15 per meter per month.

Special Conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under Schedules No. 3-B, No. 3-C, No. 3-DN and No. 3 EN, but are subject to the prior use of consumers served under Schedule No. 3-A, at times when the supply is insufficient for the demands of all consumers.

SCHEDULE No. 3-C.

(Superseding Schedules No. 3-C and No. 3-E.)

Commercial and Industrial Service.

Applicable to commercial and industrial service such as bakeries, packing houses, metal working plants, preserving and canning establishments, fruit and vegetable dryers and other consumers whose demands for gas are not dependent upon atmospheric temperature, or upon the preparation of meals and whose times of maximum demand, if any, do not coincide with the maximum demand of consumers served under schedules Nos. 3-A and 3-A-A.
Natural Gas.

Territory.

Applicable to Western District, including Santa Monica, Venice, Ocean Park, Culver City, Palms, Sawtelle and adjacent territory.

Rate.

First	50,000 cubic feet per meter per month	$0 70 per M.c.f.
Next	150,000 cubic feet per meter per month	60 per M.c.f.
All over	200,000 cubic feet per meter per month	55 per M.c.f.

Minimum Charge.

$8 per meter per month.
For continuous yearly service, accumulative annual minimum of $96 per meter.

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Special Conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under Schedules No. 3-DN and No. 3-EN, but are subject to the prior use of consumers served under schedules Nos. 3-A and 3-A-A, and 3-B, at times when there is insufficient gas to supply the demands of all consumers.

DECISION No. 18450.

IN THE MATTER OF THE APPLICATION OF O. P. MILLS FOR PERMISSION TO BORROW THREE THOUSAND DOLLARS ON NOTE SECURED BY DEED OF TRUST AND CHATTEL MORTGAGE.

Application No. 13749.

Decided June 1, 1927.

SECURITIES—NOTE—TO EXECUTE.—Application granted.

BY THE COMMISSION.

OPINION AND ORDER.

In this petition O. P. Mills asks permission to execute a deed of trust and a chattel mortgage and to issue a promissory note in the principal amount of $3,000 for the purpose of liquidating outstanding liabilities.

It seems that O. P. Mills, doing business under the firm name and style of Willow Glen Water Works, is engaged in supplying water for domestic purposes in the Willow Glen School District, near San Jose, serving about 315 consumers. In his annual financial reports filed with this Commission for the last three years applicant reports his revenues and expenses from his operations as follows:

Item	*1924*	*1925*	*1926*
Operating revenues	$3,327 73	$5,298 45	$5,888 82
Operating expenses	1,220 00	1,015 90	966 00
Net revenues	$2,107 73	$4,282 55	$4,922 82

Applicant reports his investment in fixed capital at the close of 1926 at $44,726.79 and his outstanding liabilities, consisting of open account indebtedness, at $3,509. It appears that during the year O. P. Mills extended his service to about 115 new consumers and found it necessary to expend $10,571.35 in installing about four miles of three and one-half-inch welded tubing, additional meters to take care of the new services, and a 4000-gallon steel pressure tank. The outstanding liabilities represent amounts incurred for these purposes and not yet paid.

To liquidate in part the outstanding indebtedness O. P. Mills now proposes to execute a chattel mortgage and a deed of trust to secure the payment of $3000 to be evidenced by a promissory note payable on or before twelve months after date of issue with interest at not exceeding 7 per cent per annum. Permission is sought to renew the note, or any portion thereof unpaid upon maturity, for a further period of one year.

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We have given consideration to this matter and are of the opinion that this is a matter in which a public hearing is not necessary and that the proposed chattel mortgage and deed of trust are in satisfactory form and that the money, property or labor to be procured or paid for through the issue of the note herein authorized is reasonably required for the purpose specified herein and that the expenditure for such purpose are not in whole or in part reasonably chargeable to operating expense or to income; therefore,

It is hereby ordered, that O. P. Mills, doing business under the firm name and style of Willow Glen Water Works, be and he hereby is authorized to execute a chattel mortgage and a deed of trust substantially in the same form as those attached to the application herein and to issue a promissory note in the principal amount of $3000, payable on or before twelve months after date of issue with interest at not exceeding 7 per cent per annum, and to renew such note, or any portion thereof, upon maturity, for a further period of not exceeding one year with interest at not exceeding 7 per cent per annum.

The authority herein granted is subject to the following conditions:

1. The moneys to be obtained through the issue of the $3,000 note shall be used by applicant to pay in part the outstanding indebtedness referred to herein.

2. The authority herein granted to execute a chattel mortgage and a deed of trust is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the Public Utilities Act and is not intended as an approval of such mortgage or deed of trust as to such other legal requirement to which such mortgage and deed of trust may be subject.

3. Within thirty days after the issue of the note herein authorized applicant shall file with the Commission, a certified statement showing the issue of the note and the disposition of the proceeds, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

Dated at San Francisco, California, this first day of June, 1927.

DECISION NO. 18453.

GEORGE W. JOHNSON AND J. M. JOHNSON,

vs.

GEORGE J. BENNETT.

Case No. 1773.

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Decided June 1, 1927.

COMMISSION'S JURISDICTION—AUTO TRUCKS—"ON CALL" SERVICE.—Holding that defendants are operating an "on call" service, not subject to the Commission's jurisdiction, the complaint is dismissed.

Preston and Duncan, by *C. A. Linn*, for Complainants.
Chas. Kasch, for Defendant.

BY THE COMMISSION.

OPINION.

George W. Johnson and J. M. Johnson, copartners in business, operating an automobile freight line between Geyserville and Navarro and intermediate points under the authority of a certificate of public convenience and necessity duly issued by the Railroad Commission, have filed complaint against George J. Bennett of Philo, alleging that said Bennett has solicited and accepted freight to be hauled from Philo and other points to Cloverdale and within the territory in which said complainants are serving; that said defendant has no certificate of public convenience and necessity permitting his operation, nor is he authorized by law to operate and his operations are in violation of law; that complainants at all times have been, and now are, ready, willing and able to haul all the freight which has been hauled by said defendant.

Defendant duly filed his answer herein alleging that the hauling complained of has been conducted under separate and individual contracts; that complainants have not been able, willing or ready to haul all the freight which has been hauled by defendant; that the service heretofore rendered by complainants is and has been wholly inadequate and unsatisfactory and that for such reason the farmers and growers of Anderson Valley and vicinity have made contracts with defendant to do their hauling; that hauling has been contracted for by defendant by reason of the unsatisfactory service of complainants; and that the operations of defendant have been conducted in accordance with advice of his counsel.

A public hearing on this complaint was conducted by Examiner Handford at Cloverdale, the matter was submitted on briefs filed by counsel and is ready for decision.

Geo. J. Bennett, defendant, testified he operated trucks from points in Anderson Valley to Cloverdale and other points on the line of the Northwestern Pacific Railroad; that he owned and operated a ranch in Anderson Valley supplementing his ranching activities with the operation of his trucking service; that his total trucking work aggregated one month's work in each year; that he had done no advertising or solicitation for the transportation of property, his patrons usually coming to him and offering him their business; and that he was now

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ready and willing to haul freight at any time such work was offered by any one.

C. O. Dightman, residing at Philo, testified defendant had hauled dried fruit from the ranch of witness to Healdsburg.

Henry Nunn, an apple grower, residing at Philo, testified defendant had hauled apples for him, witness having requested defendant's service.

Henry Clow, residing at Philo, has employed defendant to haul wood from Philo to Cloverdale.

Chas. Sanders, residing near Philo, has had hauling done by defendant, 15 or 16 truckloads of grape stakes being transported from a point 1½ miles from the highway near Philo to the Northwestern Pacific Railroad station at Cloverdale. Defendant was requested by this witness to do the hauling.

P. Eten, residing at Philo, has employed defendant to haul lumber from Navarro to Philo, witness having requested defendant to undertake the work.

Complainants herein are operating a freight line under the jurisdiction of this Commission and the authority granted by its Decision No. 7393 on Application No. 5417, decided April 8, 1920, covering operation between Cloverdale and Navarro, serving as intermediate points the communities at Boonville and Philo. Also by the authority conferred by this Commission's Decision No. 9027 on Application No. 6621, as decided May 28, 1921, covering operation between Cloverdale and Geyserville and intermediate points as an extension of rights already granted between Cloverdale and Navarro and intermediate points.

Complainants object to the operation of defendant in the territory, over the routes and between the fixed termini covered by their certificated authority. It appears, however, from the record herein that the hauling done by defendant has not been from regular termini but shipments have originated at points off the highway traversed by complainants in the conduct of their authorized and certificated service and that the business conducted by defendant is fully comparable with the class of service heretofore considered in its Decision No. 15818 on Application No. 11303, decided December 31, 1925, being the application of Ben Moore for a certificate of public convenience and necessity to operate freight truck service at Sanger and in the vicinity thereof, wherein the Commission held that a general "on call" service where the operations are not proposed to be "usually or ordinarily" between particular fixed points or over definite regular routes that such operations are not subject to the jurisdiction of this Commission as provided by the statutory law. The operations of defendant, as herein complained of, not being regular or between fixed termini and over

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regular routes, but being those of an operator transporting freight to any point desired by his customers and with no reasonable degree of regularity as regards "fixed termini" or "over regular routes," we are of the opinion and hereby find as a fact that the operation complained of is not subject to the jurisdiction of this Commission, and the complaint will, therefore, be dismissed.

ORDER.

A public hearing having been held on the above entitled complaint, the matter having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that this complaint be and it hereby is dismissed.

Dated at San Francisco, California, this first day of June, 1927.

DECISION No. 18456.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS OF THE RATES, CHARGES, PRACTICES, CONTRACTS, RULES, REGULATIONS, SCHEDULES AND CONDITIONS OF SERVICE, OR ANY OF THEM, OF THE LIBERTY ACRES WATER COMPANY, A CORPORATION, OPERATING A PUBLIC UTILITY WATER SYSTEM IN AND AROUND THE CITY OF HAWTHORNE, LOS ANGELES COUNTY, CALIFORNIA.

Case No. 2282.

Decided June 2, 1927.

COMMISSION'S INVESTIGATION—WATER UTILITY—RATES AND SERVICE.—The matters of complaint having been adjusted satisfactorily, or measures having been taken to remedy unsatisfactory conditions, the complaint is dismissed.

R. C. McAllister, for the County of Los Angeles.
Lucas F. Smith, for J. George Dratz, Emma H. Dratz and Carl G. Dratz.
Charles P. Johnson, for Charles A. Wiegman.

WHITSELL, *Commissioner.*

OPINION.

This is an investigation on the Commission's own motion into the practices, regulations and operating methods and conditions of the Liberty Acres Water Company, a corporation, engaged in the public utility business of supplying water for domestic purposes to consumers residing in Tracts No. 5755 and No. 6490, located near Hawthorne, in Los Angeles County. Public hearings in this matter were held at Los Angeles after all interested parties had been duly notified and given an opportunity to appear and be heard.

This water system was installed by one Ole Hanson for the purpose of supplying water to purchasers of lots in the above tracts which he was placing upon the market for salt at that time. Said Hanson

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organized the Liberty Acres Water Company, a corporation, in 1922 with a capital stock of 35,000 shares of the par value of $1 each. Application was made to the Commission for a certificate of public convenience and necessity for the operation of this system as a public utility which was granted by the Commission in its Decision No. 13926, dated August 16, 1924. A schedule of rates for service to be rendered by this utility was established by the Commission in its Decision No. 16486, dated April 13, 1926.

From the evidence, it appears that some time subsequent to the formation of this corporation, the ownership of 34,970 shares of stock, or practically the entire capital stock with the exception of some thirty shares whose actual ownership has not been satisfactorily explained, was vested in one Charles W. Wiegman and/or Agnes Wiegman, his wife, who deposited the same with the Merchants National Trust and Savings Bank at Los Angeles as collateral security for two promissory notes aggregating in the amount of $4,000. Subsequent thereto, the said Wiegman entered into an agreement with J. George Dratz, Emma H. Dratz, and Carl G. Dratz whereby these 34,970 shares of stock were to be transferred by the Wiegmans to the above Dratzes, in consideration for the exchange of certain ranch property belonging to the Dratzes, together with the assumption of the obligations due and owing on the above notes of $4,000. The bank, however, refused to surrender the stock deposited by Wiegman. In the meantime and as a result of the complications arising out of the attempted transfer of ownership in the stock of this company, neither Wiegman nor any of the Dratzes were making any effort to continue proper service of water to the consumers on the Liberty Acres Water System and, in fact, practically abandoned the plant. Through the efforts of the Commission, Jerry Campbell, who had been in charge of the pumping plant, was prevailed upon to conduct the operation of the system and consumers were requested by the Commission to pay their water bills to said Campbell pending the ssttlement of this controversy. Informal negotiations were not productive of any beneficial results and its was therefore necessary that the Commission take formal action against the owners of the stock in this utility and, as a result, the Commission on the sixth day of October, 1926, upon its own motion instituted this investigation into the reasonableness of the rates, charges and practices, conditions of service, etc., of the Liberty Acres Water Company. Public hearings were held thereon in Los Angeles on the thirteenth and fourteenth days of October, 1926.

As a result of the hearings held in this matter, the Commission prevailed upon the Merchants National Trust and Savings Bank to permit Jerry Campbell to purchase for a nominal sum the 34,970 shares of

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capital stock of the Liberty Acres Water Company which it had purchased under a pledgees' sale through the agency of one Roland Fontana. Campbell is now the owner of all except thirty shares of capital stock of this company and is now in possession of the property and in a position to devote his entire time to the repair, maintenance and operation of this utility. Measures have already been taken to relieve and improve the inadequate service conditions existing on this system, and in the very near future this utility will be in a position to render fair and adequate service to its consumers.

It therefore appears that the unsatisfactory conditions which gave rise to this investigation have now been remedied and the matter may therefore be dismissed.

ORDER.

The Railroad Commission having on its own motion instituted an investigation into the reasonableness of the rates, charges, practices, contracts, rules, regulations, schedules and conditions of service, or any of them, of the Liberty Acres Water Company, a corporation, operating a public utility water system in and around the city of Hawthorne, Los Angeles County, California, public hearings having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises;

It is hereby ordered, that the above entitled proceeding be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this second day of June, 1927.

DECISION No. 18457.

IN THE MATTER OF THE APPLICATION OF EUREKA LAKE AND YUBA CANAL COMPANY, CONSOLIDATED, A CORPORATION, FOR LEAVE TO DISCONTINUE WATER SERVICE ON SAN JUAN RIDGE, NEVADA COUNTY, CALIFORNIA.

Application No. 12260.

Decided June 3, 1927.

ABANDONMENT—WATER UTILITY—SERVICE.—Application granted.

McCutchen, Olney, Harmon and Green, by *Allan P. Matthew* and *James D. Adams*, for Applicant.

McLaughlin and McLaughlin, by *N. C. McLaughlin* and *Hennesy and Kelly* by *Lynne Kelly*, for Protestants, San Juan Water Users' Association.

Messrs. tum Suden and tum Suden, by *Peter tum Suden*, for Protestant Louis Nonneman, owner of Saint Gothard and Delhi Mining Properties.

BY THE COMMISSION.

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OPINION.

In this proceeding, Eureka Lake and Yuba Canal Company, Consolidated, a corporation, engaged in the business of distributing and selling water for domestic and irrigation uses on the so-called San Juan Ridge between the south and middle forks of the Yuba River, in Nevada County, asks authority to discontinue water service. Applicant alleges that the service has been rendered for many years at a very great annual loss, and that if the service is continued applicant will incur a similar if not a greater annual loss. It is further alleged that it would not be possible for the consumers to pay a rate that would make the service compensatory, and that it would be unreasonable to require applicant to continue the service.

The system consists of three parallel ditch properties which are known as the Milton Ditch, which obtained water by diversion from the North Fork of the Yuba River; the Eureka Lake and Yuba Canal Company Ditch, whose source of water was French and Faucherie Lake, and the Bloomfield Ditch, whose source of water is Bowman Lake. These ditches were originally constructed to furnish water for mining the gravel beds on San Juan Ridge during the hydraulic mining period. The upper portion of the Milton and Eureka Lake ditches have been washed out, and no water is being diverted from the Middle Fork or directly from French and Faucherie lakes. The water from these lakes now flows into Bowman Lake, from which it is diverted into the Bloomfield Ditch, and conveyed through many miles of flume and ditch to a point below Graniteville where it is dumped into the Eureka and Milton ditches and thence conveyed by one or the other ditches to the points of use on the ridge. About 50 miles of ditch is being used for the delivery of water, together with approximately 10 miles of flume.

The rates in effect vary from 15 to 10 cents per miner's inch per 24 hours, depending on use. Water for irrigation and domestic use is sold at the rate of 15 cents per miner's inch, and for established mining use the rate is 12½ cents per miner's inch. Water has been sold for 10 cents a miner's inch to prospectors in order to encourage prospecting and the development of mining use.

The area served is that portion of the San Juan Ridge lying between the South Fork and the Middle Fork of the Yuba River, and extending from a point west of Graniteville to points on the extreme westerly portion of this ridge. The ditch system is the principal source of water on the ridge and supplies domestic and irrigation water for the ranchers, and domestic water for several villages west of Graniteville. The number of consumers has gradually decreased, and in 1925 only 40 were receiving water, two of whom purchased water for redistribu-

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tion in the villages of North San Juan and North Bloomfield, respectively, for domestic purposes.

Evidence was presented by W. H. Warnecke, a witness for applicant, showing the annual operating revenue and expenses for the years 1921 to 1925, inclusive, which are set out in totals as follows:

	1921	*1922*	*1923*	*1924*	*1925*
Expenses	$11,098 38	$20,096 13	$16,301 84	$26,698 46	$19,243 76
Revenues	1,314 52	1,516 33	2,073 80	1,453 65	700 00

The above expenses do not include any charges for management, office expenses, taxes or any allowance for depreciation.

An analysis of the 1923, 1924 and 1925 operating accounts was presented by Wm. Stava, one of the Commission's engineers, which showed that the following deductions should be made from these expense items, because these amounts appear to cover capital and replacement expenditures not properly chargeable as operating expenses.

	1923	*1924*	*1925*
Deductions	$2,131 10	$12,008 07	$3,673 00

The testimony herein shows that there is a possibility of slightly decreasing the operating expenses by operating this system with fewer employees, and that some of the extensive repairs might be due to deferred maintenance. Nevertheless, the possibility of increasing the revenues to make the service compensatory is very remote. In fact, no testimony was produced by any of the parties looking toward a method of operating the system, under present conditions, which would make the service compensatory, except in connection with furnishing water for mining the gravel bodies along the ridge. It was admitted by the company that at some time in the future, if storage of debris from hydraulic mining be provided, mining operations might be resumed, and under such conditions water could then be furnished the ridge without incurring the losses now falling to the company when operating the system for the ridge alone. It is evident, however, that there is no reasonable possibility of rendering this service compensatory save by this remote chance that hydraulic mining may be resumed.

Louis Nonnemann, owner of the Delhi Mine, appeared and made certain representations of ownership of a right to take certain water from a watercourse known as Bloody Run whose bed is used for a considerable distance for the water here in question. However, since this Commission is not empowered to determine questions of water rights, and since an order herein can apply only to the public utility water service of applicant, nothing that this Commission may do herein can affect any right of this party. In our opinion, no obligations which applicant may be under to supply water to him could render the public utility uses of applicant compensatory, nor has any other plan

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been put forward by any party hereto which, in our opinion, holds out the hope that the revenues to be expected from this service can or will be sufficient to meet even the bare cost of upkeep, not to mention the items of depreciation, taxes and return upon investment.

In order to provide for the continuance of service to the San Juan Ridge area, a series of conferences with representatives of the company and the consumers was held, which resulted in an agreement between applicant and its consumers whereby applicant has offered to lease its water producing and distributing facilities to the consumers for a term of one year and thereafter from year to year at a nominal rental. We believe that such an arrangement would be beneficial to all concerned. Indeed, during the year 1926, this system was actually operated under a private arrangement approximating this plan, and its continuance appears to be feasible. That the present public utility service can be continued seems, however, impossible under the revenue situation that obtains.

A resolution has been adopted by the Nevada Irrigation District, providing for the release of certain water from Bowman reservoir, (now the property of the district) in such amounts as shall be reasonably necessary to serve the existing obligations of water service to the consumers on San Juan Ridge as of February 16, 1926. This lease and resolution of the district may assure the ridge area a water supply as long as the consumers maintain the flume and ditch.

As stated before, the evidence shows without contradiction that the company can not operate this system under the present conditions without continued financial loss, and that the possibility of combining the present service with the delivery of water for hydraulic mining is so remote that it would be unfair to expect the company to continue the service and stand the losses it has suffered for the past years.

In their brief, protestant consumers have urged certain considerations of water right and system title which are without our jurisdiction to determine. We must assume, for the purposes of this case, that applicant is possessed of these rights and could, if conditions warranted, continue this service. Conditions, however, do not appear to allow for such continuance, and after a careful consideration of the evidence submitted in this proceeding, together with the briefs that have been filed, it appears that authority to abandon service should be granted. The contention of protestants that this applicant is not a public utility is, in our opinion, without basis.

ORDER.

Eureka Lake and Yuba Canal Company, Consolidated, a corporation, having made application to the Railroad Commission for authority to discontinue public utility water service on San Juan Ridge, Nevada

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County, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed;

It is hereby ordered, that Eureka Lake and Yuba Canal Company, Consolidated, a corporation, be and it is hereby authorized to discontinue public utility water service to its consumers on San Juan Ridge, Nevada County, California, effective from and after the date of this order.

Dated at San Francisco, California, this third day of June, 1927.

DECISION No. 18464.

CALIFORNIA TRANSIT COMPANY, A CORPORATION, AND R. R. YOUNG, DOING BUSINESS UNDER THE NAME OF YOSEMITE TRANSIT,

vs.

C. D. VIRGILIO, E. H. KELLOG, TOM GOGOS, C. M. GOTCHIS, W. R. MYGATT, MRS. TOM GOGOS.

Case No. 2179.

Decided June 3, 1927.

COMMISSION'S JURISDICTION—AUTO PASSENGER SERVICE—PRIVATE CARRIER.—Finding that no showing had been made that any of the defendants was conducting a common carrier business subject to the Commission's jurisdiction, the complaint is dismissed.

Earl A. Bagby and *L. J. Smallpage*, for Complainants.
James D. Meredith, for Defendants.

BY THE COMMISSION.

OPINION.

California Transit Co., a corporation, and R. R. Young, an individual doing business under the name of Yosemite Transit, have complained of defendants C. D. Virgilio, E. H. Kellog, Tom Gogos, C. M. Gotchis, Mrs. Tom Gogos and W. R. Mygatt alleging that said defendants, and each of them are engaged in the business of transporting passengers for compensation, as common carriers of said passengers between fixed termini and over regular routes, within the State of California and over the public highways thereof, without first having obtained a certificate from the Railroad Commission declaring that public convenience and necessity require such operation; that none of said defendants or any of their predecessors in interest were actually operating in good faith, or at all, prior to or during the year 1917 and that all of the operations complained of are contrary to and in violation of the provisions of chapter 213, California Statutes of 1917, and effective amendments thereto; that the regular routes and fixed termini over which said defendants and each of them have been and are transporting passengers for compensation are as follows: (1) between Sacramento and Stockton over the state highway known as the upper Sacramento road and

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Cherokee lane; (2) between Stockton and Oakdale over the main highway via Hogan road and Escalon; (3) between Stockton and Camps Nos 1, 2 and 3 and main camp of Oakdale and San Joaquin Irrigation District at points about nine miles northeast of Jamestown over the main road via Oakdale and Jamestown; (4) and between Sacramento and all points in the State of California for which passengers can be secured; that defendants, and each of them, in carrying on the transportation business as complained of also carry passengers to and from points intermediate to the termini herein mentioned; and that defendants and each of them in the carrying on of the transportation business as complained of are operating jointly, each with the other, and with full knowledge of and in defiance of the statutory law. Complainant California Transit Co. further alleges that it maintains lawful operation for the transportation of persons between Sacramento and Stockton, between Stockton and Manteca via French Camp, and to all points intermediate thereto and to many other points within the State of California, and complainant Yosemite Transit, in a similar manner, operates between Stockton and Oakdale, Stockton and Sonora, Stockton and Jamestown, Tuolumne and Yosemite Junction, and to all intermediate points and other points within the State of California; that the alleged unlawful service is doing great and irreparable injury to the business of complainants; and is detrimental to the public service offered and furnished by said complainants.

Complainants pray for an order of this Commission requiring defendants and each of them to cease all transportation of passengers for compensation and operating either as a common carrier of passengers or as a carrier of passengers between fixed termini or as a carrier of passengers over regular routes within the State of California and in particular between the termini and over the regular routes contained in the complaint.

Defendants Tom Gogos, Mrs. Gogos, E. H. Kellog, C. D. Virgilio and C. M. Gotchis duly filed their answers herein, said answers being a general denial of the allegations of the complaint.

Upon the issue as presented by the complaint and answers a public hearing was conducted by Examiner Handford at Stockton, the matter was duly submitted and is now ready for decision.

C. D. Virgilio, one of defendants herein, testified that he resided in Sacramento and was proprietor of the Cosmopolitan Labor Agency in that city. Witness described the method of handling applicants for employment as to the fee exacted and the deposit required from applicants to cover transportaion to the place of employment. The amount collected from applicants for employment covering transportation was turned over to the driver of the vehicle and if a sufficient number was

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not obtained to warrant a trip, five persons usually being the minimum transported from Sacramento to Melones Dam, the employee was given his option of waiting until the next day or taking the train or stage, and if the latter option were chosen, the transportation deposit was refunded and the employee sought his own method of transportation. Witness had turned over employees to defendants Gogos, Gotchis and Kellog, paying them the deposits previously made by such employees. Witness has personally transported no passengers or laborers, nor has he operated or had any interest in the operation of stages for the carriage of passengers or employees.

B. F. Southerland, residing at Jamestown, testified that on September 24, 1925, he applied for work at the Cosmopolitan Labor Agency in Sacramento; that he was accepted for employment at Melones Dam, paying an employment fee of $2 and a transportation charge of $5; that he with ten others boarded an automobile driven by defendant Tom Gogos and were transported to Jamestown.

B. L. Richards, residing at Jamestown, testified that he accompanied the previous witness on September 24, 1925, was similarly employed, paying the same employment fee and transportation charge.

C. R. Chandler, residing at Woodland, testified regarding securing employment at the Cosmopolitan Labor Agency in Sacramento on September 28, 1925, paying to the clerk in the employment office an employment fee of $2 and a transportation charge of $5; that he and others were transported to Melones Dam by defendant Gogos; that another car left the employment office at the same time for Melones Dam, driven by defendant Gotchis.

Ed Hart, residing at Woodland, testified he accompanied the previous witness on September 28, 1925, securing employment, paying the $2 employment fee and $5 transportation charge and being transported to Melones Dam by defendant Gogos.

E. H. Kellog, one of defendants herein, testified he resided at 1620 F street, Sacramento; that he was in the business of transporting passengers; that he had hauled employees from the Cosmopolitan Labor Agency in Sacramento to Melones Dam; that he had handled at the rate of $5 per passenger with a minimum of $25 per trip, the collection being made by the employment agency who turned the money over to him in a lump sum; that in the few instances where less than five passengers were available for transportation and the trip had been made, there had been camp equipment, tools or supplies to be transported and the $25 minimum was collected. Witness had practically no back haul although stated that he would have accepted anyone who might have applied, provided they wished to hire the car, not on the basis of individual passengers.

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C. M. Gotchis, one of defendants herein, testified that he resided in Sacramento and was engaged in the business of running an automobile for hire; that he had hauled passengers from the Cosmopolitan Labor Agency at Sacramento to the construction work and camps at Melones Dam, receiving as compensation $35 per trip for seven passengers, $40 for eight passengers, $35, however, being the minimum charge per trip; and that the compensation was paid by the clerk at the Cosmopolitan Labor Agency. Witness has also made trips to Lake Tahoe, Jamestown and Napa.

Tom Gogos, one of defendants herein, testified that he resided in Sacramento and was engaged in the business of operating a car for hire; that in connection with such business he transported laborers to any point, trips having been made from January 10, 1925, to October 29, 1925, from Sacramento to Grass Valley, Walnut Grove, Redding, Wesley, Mountain Gate, Placerville, Pitt River, Garden Valley, Sierra City, Maxwell, Lake Tahoe, Lake Almanor, Loyalton, Marysville, Jamestown, Fairfield, Cloverdale, Cordelia, Elmira, Chico rice fields, Rio Vista Junction, Winters, and Durham; that these trips were made on the basis of an amount being agreed upon for the rent of the car; and that no return loads or individual return passengers had been hauled.

E. H. Kellog, one of the defendants herein, testified he was engaged in the business of automobile transportation and had been since 1913; that he had made trips from Sacramento to Oroville, Merced Falls, Placerville, beet fields in the Sacramento Valley, Hamilton City, Klamath Falls, Mount Whitney, Mineral King, Yosemite Park, Sutter City, Maxwell and Melones Dam; and that he had no regular routes, his service being available to any point to which his patrons desired transportation and at rates based on the distance traversed and the number of passengers offering.

From the record in this proceeding it appears that defendants E. H. Kellog, Tom Gogos and C. M. Gotchis are engaged in automobile service by rent cars; that they operate to any point and at any time when patronage can be secured on an agreed rate per trip, that such rate varies with the number of persons handled although a minimum is exacted dependant upon the distance to be traversed. As to defendant C. D. Virgilio, the evidence shows that he is the proprietor of the Cosmopolitan Labor Agency at Sacramento; that in the business conducted by such agency deposits are taken from patrons for transportation to the location of the employment; and that such deposits are turned over by the employment office to the operators of automobiles transporting laborers to the point of employment.

As regards the defandant Mrs. Tom Gogos, the record shows that the car operated by Tom Gogos, her husband, is registered in her name,

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there being no evidence that she has participated in any of the alleged operations beyond the fact that a car registered in her name has been used by her husband.

After full consideration of the record in this proceeding we are of the opinion that no showing has been made which justifies the conclusion that defendants herein have conducted their operation in the handling of laborers from Sacramento to Melones Dam or other points alleged in the complaint as a common carrier or in violation of the statutory provisions as contained in chapter 213, Statutes of 1917, and effective amendments thereto. The order herein will provide for the dismissal of the complaint.

ORDER.

A public hearing having been held on the above entitled complaint, the matter having been duly submitted and the Commission being now fully advised;

It is hereby ordered, that this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this third day of June, 1927.

DECISION NO. 18470.

IN THE MATTER OF THE APPLICATION OF ONTARIO POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF FIVE AND ONE-HALF PER CENT GENERAL AND REFUNDING BONDS.

Application No. 13743.

Decided June 4, 1927.

SECURITIES—BONDS AND NOTES—TO ISSUE.—Authority granted Ontario Power Company to issue and sell $86,000 of Series B general and refunding mortgage 5½ per cent bonds, and $30,100 of unsecured promissory notes payable in not later than one year, with interest at not exceeding 7 per cent per annum.

BY THE COMMISSION.

OPINION.

The Railroad Commission is asked to make an order authorizing Ontario Power Company to issue and sell, on a 6 per cent basis or better, $86,000 of its 5½ per cent Series B general and refunding mortgage bonds, and to renew certain notes, aggregating $40,100, for a period of one year.

Ontario Power Company is engaged in the manufacture, purchase and sale of electricity for light, heat and power in and about the cities of Ontario and Upland. It reports, in the present application, that during the period from May 1, 1926, to March 31, 1927, it expended for capital additions to its plants and properties the sum of $110,328.88, as shown in detail in schedules attached to the petition. From the

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total expenditures it deducts $9,130.54 on account of retirements of property, leaving a balance of $101,198.34. Applicant desires to use the proceeds from the $86,000 of bonds to reimubrse its treasury in part on account of earnings used in making such expenditures.

Applicant also asks permission to issue $40,100 of notes to renew notes now outstanding. These notes are as follows:

Payee	*Date of issue*	*Date due*	*Rate of interest*	*Amount*
P. G. Brown	1/ 1/26	7/ 1/26	7	$1,000 00
C. C. and Georgia N. Graber	9/ 1/26	3/ 1/27	7	7,000 00
Mary E. Graettinger	9/ 1/26	3/ 1/27	7	500 00
Alma Agnew	9/ 1/26	3/ 1/27	7	500 00
Mary J. Flavelle	9/ 1/26	3/ 1/27	7	1,500 00
Mabel Gray	9/ 1/26	3/ 1/27	7	1,000 00
Wm. H. Halfpenny	9/ 1/26	3/ 1/27	7	3,200 00
E. W. and Alice R. Jamison	9/ 1/26	3/ 1/27	7	500 00
Bertha M. Nelton	9/ 1/26	3/ 1/27	7	2,000 00
Mrs. Tillie Nicholson	9/ 1/26	3/ 1/27	7	500 00
Olive Harrison Whitney	9/ 1/26	3/ 1/27	7	2,000 00
John N. and Mina Huehn	10/ 1/26	4/ 1/27	7	1,000 00
J. E. and Elizabeth McCarthy	10/ 1/26	4/ 1/27	7	500 00
Herman Kuhlman	10/ 1/26	4/ 1/27	7	2,200 00
C. E. and E. F. Pardee	10/ 1/26	4/ 1/27	7	500 00
Harriet M. De Berard	10/ 1/26	4/ 1/27	7	1,000 00
Edward W. Partridge	10/ 1/26	4/ 1/27	7	500 00
Howard L. Berg	10/ 1/26	4/ 1/27	7	2,000 00
Geo. J. and Henrietta Lord	1/ 2/27	7/ 2/27	7	1,500 00
A. C. and Elizabeth P. Reynolds	2/ 1/27	7/ 1/27	7	1,000 00
Daniel A. Stine	3/ 1/27	7/ 1/27	7	10,000 00
Minnie Roth	4/ 5/27	7/ 5/27	7	100 00
J. W. and Annie Bryden	4/19/27	10/19/27	7	100 00
Total				$40,100 00

Since the filing of the application the company has advised the Commission that the $10,000 note in favor of Daniel A. Stine had been paid, so the order herein will authorize the issue of only $30,100 of notes.

ORDER.

Ontario Power Company, having applied to the Railroad Commission for permission to issue bonds and notes, and the Commission being of the opinion that this is a matter in which a public hearing is not necessary and that the money, property or labor to be procured or paid for through such issue is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Ontario Power Company be and it is hereby authorized to issue and sell, at not less than 94½ per cent of par value and accrued interest, $86,000 of Series B general and refunding mortgage 5½ per cent bonds due July 1, 1955, and to use the proceeds to reimburse its treasury and to finance in part the cost of additions and betterments made prior to March 31, 1927.

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It is hereby further ordered, that Ontario Power Company be and it hereby is authorized to issue $30,100 of unsecured promissory notes payable not later than one year from the date of this order with interest at not exceeding 7 per cent per annum for the purpose of refunding the outstanding notes referred to in the foregoing opinion.

It is hereby further ordered, that the authority herein granted shall become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $117.

It is hereby further ordered, that applicant shall keep such record of the issue and sale of the bonds and notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this fourth day of June, 1927.

DECISION No. 18473.

IN THE MATTER OF THE APPLICATION OF R. C. DEARBORN, AS AGENT, FOR AN ORDER AUTHORIZING CARRIERS OPERATING WITHIN THE STATE OF CALIFORNIA TO PUBLISH A CHARGE FOR TRANSPORTING ICE PLACED ON TOP OF THE LOAD IN BODY OF CAR BY SHIPPERS.

Application No. 12788.

Decided June 6, 1927.

RATES—STEAM RAILROAD—REFRIGERATOR CARS—TOP ICE CHARGE.—Applicants authorized to establish a temporary charge of $5 per car to cover partly the damage to refrigerator cars and the cost of transporting top ice on intrastate shipments of vegetables and fruits.

J. E. Lyons and *Elmer Westlake*, for Applicant.
J. F. Bon, for Western Pacific Railroad.
Max Thelen, for Western Growers' Protective Association.
Edson Abel, for California Farm Bureau Federation.

BY THE COMMISSION.

OPINION.

This is an application filed by R. C. Dearborn as agent for and on behalf of the California rail lines, parties to Perishable Protective Tariff No. 2, C. R. C. No. 1, seeking authority to establish on intrastate traffic the interstate provisions of paragraph G, Rule 200-R, paragraphs A to E inclusive, Rule 240-F, and Rule 242-B of Perishable Protective Tariff No. 2, C. R. C. No. 1, as specifically set forth in the application.

The Western Growers' Protective Association and California Farm Bureau Federation appeared in opposition to the granting of the application. Public hearings were held before Examiner Geary at San Francisco, and the application having been duly submitted and briefs filed, is now ready for our decision and order.

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The proposed publication of paragraph G, Rule 200-R, is claimed to be for the purpose of definitely providing that carriers will not place ice or salt in the body of refrigerator cars. At the present time the tariff provides that this service will be rendered by carriers at regular icing stations in case of an emergency and/or upon request of shippers.

The establishment of paragraphs A to E, inclusive, of Rule 240-F on intrastate traffic, is claimed to be for the purpose of removing an ambiguity and clearly setting forth in the tariff a practice that has always been adhered to by carriers, namely, that on shipments under refrigeration moving with instructions "do not reice," the ice shall be loaded only in the bunkers of the car and not in the body of the car.

The establishment of Rule 242-B on intrastate traffic will have the effect of limiting the amount of ice placed on the top of the load in the body of the car to 9600 pounds on shipments of cauliflower and Faba beans, and 7500 pounds for other vegetables and for berries, melons or other perishable fruit named in section 2 of the tariff, and in addition it will provide for a charge of $5 per car if the journey is confined within the limits of a single origin group, $7.50 per car if confined within two contiguous origin groups, and in all other cases 20 per cent of the stated refrigeration charge. Ice on top of the load in excess of 9600 or 7500 pounds, as the case may be, will be assessed on the basis of the freight rate applicable to the lowest rated commodity in the car.

The changes contemplated primarily relate to the practice of California producers in shipping vegetables of placing ice in the body of refrigerator cars for the purpose, it is claimed, of properly protecting the entire lading. This method or refrigeration, commonly referred to as top icing, has been used by the California shippers of vegetables since about the year 1920. There are two forms of top icing, the so-called pigeon-holing or checkerboard method, which consists of placing blocks of ice on top of each tier of crates thoroughout the load, and the placing of either blocks of ice or crushed ice on the top tier of the lading. The former method is used principally in connection with shipments of cauliflower, and the latter is generally employed in moving shipments of lettuce, peas, beets, carrots, artichokes and other vegetables.

Prior to the inception of top icing, refrigeration of vegetables was accomplished by the use of ice in the bunkers of the car and in addition 25 to 30 pounds of ice each crate with the vegetables. It was found, however, that this method of refrigeration was not satisfactory, for the two top tiers of crates reached the market in an unsatisfactory condition, due to the fact that the heavier and warmer air at the top damaged the vegetables. Frequently the price received for the crates in the upper tiers was but a fraction of the price received for the balance of the load, and often resulted in a total loss. To remedy this situation

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and to insure the entire lading reaching the destinations in a marketable condition shippers began placing blocks of ice on top of the load, in addition to the ice in the crates. This form of protection proved so satisfactory that today practically all shipments of vegetables, both intrastate and interstate, are so transported. With the advent of top icing the use of ice in the bunkers of the cars practically ceased, but shippers still continue to use crate icing. As illustrative of the extent that top icing is now used in preference to bunker icing, it is in evidence that during a test period, extending from February 18 to May 31, 1926, the Southern Pacific Company originated 747 cars of vegetables, of which 90 moved with ice in the bunkers and 657 with only top and crate icing.

For shipments with ice in the bunkers of the car, initially iced and reiced en route, carriers receive a stated refrigeration charge, ranging from $30 to $55 per car, and for those initially iced only and not reiced en route, from $4.50 to $6.50 per ton for the ice furnished, plus an additional charge of $5, $7.50 or 20 per cent of the stated charge, according to the length of haul.

The ice loaded in the crates is charged for on the basis of the freight rate applicable to the lading, less an allowance of 10 pounds of ice per crate for meltage, but neither a refrigeration nor transportation charge is made for the ice used in top icing. Shippers are now placing as much ice as they desire on the top of the tiers or crates, and usually provide between 6000 and 7500 pounds for all vegetables except cauliflower and Faba beans, when a somewhat greater amount of ice is ordinarily used.

Applicants contend they should receive some revenue from top icing to cover the cost of transporting the ice, and for the damage to the insulation of the floors and side walls of refrigerator cars caused by the water melting from the ice and saturating the cork, felt and other materials used for insulation.

The cost of transporting the ice is computed by applicants at 3.026 mills per ton mile, which amount is claimed to represent the average line haul cost per gross ton mile for all traffic moving over the lines of Class 1 carriers in the western district during the year 1924. Based on this factor the average cost for hauling top ice in the 747 cars moving via the Southern Pacific Company between various points in California during a period extending from February 18, 1926, to May 31, 1926, was $3.67 per car. During the same period the alleged cost of performing a similar service on 43 cars moving via the Santa Fe was $2.35 per car.

The damage to the insulation of the floors and side walls of refrigerator cars caused by dripping water is stated to be approximately $8 per

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car per trip. This amount, however, is purely an estimate by operating witnesses, and was unsupported by any definite cost figures. It is clear on this record that water from ice in the body of the car causes the insulation to deteriorate and lessen the life of refrigerator cars, but what portion of this damage is properly attributable to top icing is impossible to here determine. The damage resulting from water dripping on the floors of the car from ice in the crates must be taken into consideration. In a carload of lettuce there are about 320 crates, and as each crate contains 25 pounds of ice there is an aggregate of about 8000 pounds of crate icing. The meltage from the ice in the crates not absorbed by the lading passes to the floor of the car, as well as the meltage from the top ice. Thus, if the practice of top icing were eliminated entirely there would still remain the damage caused by the ice in the crates.

Protestants contend no charges should be assessed for the hauling of the top ice nor for damages to the equipment, upon the theory that the volume of the freight rates is sufficiently high to include these services. They point to the fact that from the Imperial Valley to Los Angeles, where the most important movements here under consideration obtain, that the Class C rates, the basis generally used in California for the movement of vegetables, were established by this Commission in *Board of Supervisors of Imperial County* vs. *Southern Pacific,* 22 C. R. C. 93, decided July 28, 1922. But the record in that proceeding does not bear out this contention, for the class rates were established without consideration to the icing services and apply to all commodities moving under the classification rates by use of the Western Classification or the Exception Sheet. We said in considering the level of the fruit and vegetable rates (22 C. R. C. 93):

> **In the Western Classification, fresh fruit, N.O.I.B.N., moving in carload lots, is rated third class, while vegetables are rated fifth class. In the State of California, however, these commodities move under Class C rating, as per item published in the Exception Sheet, issued by Pacific Freight Tariff Bureau.**
>
> **This Class C rating in California was established years ago to take care of the movement of fresh fruits and vegetables and is on a basis very much lower than the rates applying in the fruit and vegetable districts of other states.**

The Interstate Commerce Commission in Docket 2262, Protective Service Rules on Perishable Freight 104, I. C. C. 79, decided December 10, 1925, a proceeding involving the same issues on interstate traffic, announced an investigation in cooperation with the Department of Agriculture. The Commission said:

> **We have authorized an investigation in cooperation with the Department of Agriculture into and concerning the practice of body icing vegetables, with a view to determining the value of body icing in the shipment of certain types of vegetables, the effect of the practice on the equipment, and means of obviating a deleterious effect upon the equipment from this practice.**

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> Until the results of those tests are known, respondent can not be expected to transport the ice placed upon the load without charge. As we have hereinbefore indicated, the damage to the equipment resulting from top ice is incapable of measurement. This is particularly so when wetting of the car floor and sides from the crate ice is considered. It does not follow, however, that the carrier should not be compensated in some way for whatever damage may be attributable to the top ice, and for the cost of transporting the ice.

Pending the results of the investigation the Federal Commission temporarily approved for interstate traffic a charge of $5 per car if the journey was confined to the limits of a single origin group, $7.50 if confined to the limits of two contiguous origin groups, and in all other cases 20 per cent of the stated refrigeration charge, and also limited the amount of top icing to 7500 pounds. For the purpose of assessing intrastate refrigeration charges California is divided into seven origin groups, designated as A to G, inclusive, with but three groups, designated A to C, inclusive, on interstate traffic. Roughly speaking, intrastate Group A embraces the territory east of and including Daggett and Banning; Group B, west of Daggett and Banning and south of the Tehachapi and Santa Barbara; Group C, San Joaquin Valley south of Stockton and Lathrop; Group D, Coast Division of the Southern Pacific north of Santa Barbara and south of San Jose; Group E, the territory north of San Jose, west of Stockton and Sacramento and south of Sherwood and Willits; Group F, all territory north and east of Sacramento, Sherwood and Willits except points on the Fernley branch of the Southern Pacific, Stacy to Westwood, inclusive, which latter territory embraces Group G.

The interstate Group A includes practically the entire state, with the exception of points on the San Diego and Arizona Railway, Campo and east thereof, points on the Holton Interurban Railway, and points on The Atchison, Topeka and Santa Fe Railway south of Cadiz, which have been designated as Group B, and points on the Southern Pacific, Banning and east, designated as Group C.

Under the proposed charges a shipment of vegetables top iced from Sacramento to Los Angeles, 447 miles would be assessed $8 per car, but for a similar shipment via the Southern Pacific from Roseburg, Oregon, or Winnemucca, Nevada, to Los Angeles, 925 miles and 770 miles respectively, the charge would be only $7.50 per car, although the shipments moving from the interstate destinations are hauled directly through Sacramento and other points in California where higher intrastate charges would prevail.

If the interstate groups were used as a basis for establishing the proposed charges in California, practically all intrastate shipments would be confined to a single origin group save those originating at or destined to a comparatively small portion of the state included within groups B and C, the latter including practically all of the

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Imperial Valley. Thus, top iced vegetables originating at points west of Banning and north of Cadiz and destined to the primary consuming markets San Francisco and Los Angeles, would be assessed $5 per car, but if originating at points in the Imperial Valley or any other point in groups B and C, the charge would be $7.50 per car. This difference in intrastate charges would create a discriminatory and unsatisfactory condition and is unwarranted.

After careful consideration of all the facts of record we are of the opinion and find that the application should be granted, subject, however, to a maximum charge of $5 per car in connection with shipments moving under the provisions of Rule 242-B.

We are of the further opinion that this proceeding should be held open and the matter given further consideration when the results of the investigation by the Interstate Commerce Commission and the Department of Agriculture referred to in Docket 2262 are determined.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusion contained in the opinion which precedes this order;

It is hereby ordered, that applicant be and he is hereby authorized to establish and file for application on intrastate traffic in California the interstate provisions of paragraph G, Rule 200-R, paragraphs A to E, inclusive, Rule 240-F and Rule 242-B of Perishable Protective Tariff No. 2, C. R. C. No. 1, subject to a maximum charge of $5 per car in connection with shipments moving under the provisions of Rule 242-B.

It is hereby further ordered, that this proceeding be held open for such further order or orders as the Commissioner may deem proper.

Dated at San Francisco, California, this sixth day of June, 1927.

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MISCELLANEOUS AND SUPPLEMENTAL ORDERS.

AUTO STAGE APPLICATIONS.

DISMISSALS.

GRADE CROSSINGS.

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TABLE A—DISMISSALS (Cases).

Dec. No.	Case No.	Litigants	Date
17700	2254	Bay Cities Transportation Company vs. Alameda Transportation Company	Dec. 2, 1926
17725	2231	Bekins Van Lines, Inc., vs. University Transfer and Storage Company, C. L. Cutler	Dec. 7, 1926
17741	2284	Fort Bragg Electric Company, Commission's investigation into rates, etc., of	Dec. 10, 1926
17782	2272	J. H. Todd vs. East Bay Water Company	Dec. 20, 1926
17789	2241	Town of North Sacramento vs. Sacramento Northern Railway Company	Dec. 20, 1926
17943	2250	Greening-Smith Company vs. Southern Pacific Company and Pacific Electric Railway Company	Jan. 27, 1927
18045	2309	T. L. McNamara vs. Anton J. Ronsheimer Water System and Utility	Mar. 2, 1927
18131	2233	E. V. Rideout vs. Erikson Navigation Company	Mar. 30, 1927
18153	2279	California Cattlemen's Association and California Farm Bureau Federation vs. Sacramento Northern Railway Company	April 2, 1927
18195	2258	S. Carder Smith vs. San Diego Electric Railway Company	April 7, 1927
18204	1617	J. I. Moore and W. H. Gibson vs. John Doe Yokota	April 7, 1927
18242	2150	Pacific Gas and Electric Company vs. Emma Rose, Hobart Estate Company and Utica Mining Company	April 14, 1927
18268	2205	Valley and Coast Transit Company vs. Sandercock Transfer Company, et al.	April 20, 1927
18309	2341	Sacramento Brick Company vs. The Western Pacific Railroad Company and Southern Pacific Company	May 2, 1927
18328	2236	Bozoff and Tarvoff vs. Oganesoff and Oskanoff, et al	May 3, 1927
18335	2345	General Chemical Company vs. Southern Pacific Company	May 6, 1927
18375	2280	Tom Carpenter, V. S. vs. The Pacific Telephone and Telegraph Company	May 17, 1927
18433	1841	G. H. Moore, Administrator of Estate of Victor W. Matheu vs. Henry T. Campbell and Pickwick Stages, Inc.	June 1, 1927
18434	2303	San Dieguito Water Company, Commission's investigation into rates, fares, regulations, etc., of	June 1, 1927
18435	2357	Sycamore Canyon Gravel Company vs. Pacific Electric Railway Company	June 1, 1927
18454	1910	Ferris and Ferris, et al. vs. San Diego Electric Railway Company	June 1, 1927

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TABLE B—DISMISSALS (Applications).

Dec. No.	App. No.	Applicant	Nature of proceedings	Date
17713	11850	Sullivan Brothers Trucking Company, Inc.	To operate auto truck service between San Pedro and Wilmington, on the one hand, and certain southern California points, on the other hand	Dec. 3, 1926
17714	12023	A. Y. Sale	To operate auto freight service between Los Angeles and oil fields as far north as Porterville	Dec. 3, 1926
17721	11307	F. M. Barrows	To operate auto truck service between Ventura County and counties of San Luis Obispo, Santa Barbara, Los Angeles, Riverside and Orange	Dec. 7, 1926
17722	12269	Lewin Transfer and Storage Company	To operate auto truck service in all counties south of and including San Luis Obispo, Fresno and Inyo	Dec. 7, 1926
17723	12303	Grant Griswold and I. C. Griswold	To operate motor freight service for transporting live stock throughout southern California and San Joaquin Valley, and between Santa Barbara, Ventura, Santa Paula, Fillmore, Oxnard, etc.	Dec. 7, 1926
17724	12415	Diamond and Caldor Railway	To discontinue service as common carrier (El Dorado County)	Dec. 7, 1926
17731	13235	Demers and Earle	To operate motor freight service in counties of Los Angeles, Orange, Ventura, San Bernardino, Riverside, Santa Barbara and San Diego	Dec. 10, 1926
17735	10827	San Jose Railroads	To abandon service and remove tracks from Julian Street between Seventeenth Street and Twenty-first Street in city of San Jose	Dec. 10, 1926
17736	12936	Bakersfield and Los Angeles Fast Freight Company and Los Angeles and West Side Transportation Company	To establish joint class rates between Bakersfield and Taft, via Greenfield	Dec. 10, 1926
17751	12416	F. B. Field and Son	To operate motor truck service between Los Angeles and certain points in southern California	Dec. 11, 1926
17752	13349	The Western Union Telegraph Company	To operate seasonal telegraph office at Heber	Dec. 13, 1926
17781	13313	Santa Barbara and Suburban Railway Company and City of Santa Barbara	To make effective special school children fares	Dec. 20, 1926
17813	12223	E. E. McPherson	To operate auto truck service for transportation of live stock, fresh fruit, etc., between ranches and farms within radius of 35 miles of Cloverdale, etc.	Dec. 29, 1926
17814	12330	Yater and Liebelt	To operate auto truck service within radius of 150 miles from Oakland	Dec. 29, 1926
17815	12425	Fred A. Moses	To issue note, execute a mortgage and to secure said notes, and increase rates	Dec. 29, 1926
17825	12275	Savage Drayng Company	To operate auto truck service between Newman and San Francisco and Oakland and intermediate points	Dec. 30, 1926
17828	11723	Bay Cities Transit Company	To discontinue issuance and acceptance of transfer to and from Venice local line at Venice	Dec. 30, 1926
17864	13200	Union Traction Company	To abandon auto stage lines between Santa Cruz and Capitola and between Santa Cruz and Twin Lakes	Jan. 11, 1927
17865	13399	Associated Telephone Company	To issue and sell $1,800,000 par value of first and refunding mortgage gold bonds	Jan. 11, 1927
17883	13215	A. L. Phillips	To operate auto truck line between Nicolaus, Sutter County, and Sacramento, Sacramento County	Jan. 12, 1927
17921	12853	Southern Pacific Company	To abandon non-agency station at Lennox, Ventura County	Jan. 18, 1927
17922	12854	Southern Pacific Company	To abandon non-agency station at Beetox, Ventura County	Jan. 18, 1927
17941	7608	V. V. Anderson	To operate auto express, freight and passenger service between Middletown, Lake County, and Monticello, Napa County	Jan. 26, 1927
17971	13433	American Railway Express Company	To close agency at Shingle Springs, El Dorado County	Feb. 7, 1927
18020	13359	W. and S. Truck Company (P. E. Tibbetts) and Motor Service Express	Former to sell to latter auto freight line operated between Los Angeles and San Jacinto and certain intermediate points	Feb. 23, 1927

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18035	11522	Stockton Transfer Company	To operate motor truck service between Stockton and various designated termini	Mar. 2, 1927
18046	7750	W. H. Samson	To exercise franchise rights granted by Board of Supervisors of Trinity County to construct and operate hydro-electric system	Mar. 2, 1927
18075	13309	Southern California Gas Company	To issue and sell stock	Mar. 14, 1927
	13315	Southern California Gas Company	Stock, to exchange	
18076	13490	Relph Transportation Company	To sell and Joseph Perumean and S. J. Stratton to purchase an auto freight line operated between Chino, Ontario and Los Angeles	Mar. 14, 1927
18111	13392	C. B. Jackson (California Water Service Company)	To issue stocks and bonds	Mar. 28, 1927
18170	10990	Pacific Electric Railway Company	To discontinue portion of Upland-San Antonio Heights motor coach line between Twenty-fourth Street (La Cima) and San Antonio Heights	April 4, 1927
18171	11226	Chauncy Bluff	To operate auto freight service between central manufacturing district in Los Angeles County and various southern California points	April 4, 1927
18205	13046	A. A. Stelzer	To operate auto passenger service between Seaside and Monterey, Monterey County	April 7, 1927
18220	13196	E. J. Whitney	For certificate to operate water system in Tract 4782, Los Angeles County	April 12, 1927
18229	13456	Southern Pacific Company	To construct spur track at grade across O Street, a side track across O Street and a side track across M Street, city of Merced	April 13, 1927
18240	12715	A. B. Watson (Crown Stage Lines)	To operate auto busses between cities of Riverside and San Bernardino, and Long Beach and San Pedro	April 14, 1927
18241	13347	Frank A. Mullens and Robert V. Hardie	Former to lease to latter operating rights for auto truck lines, with option to purchase	April 14, 1927
18306	12222	Floyd B. Smith	To eliminate restrictions on transportation of property; to consolidate operative lines and to eliminate certain round trip fares covering passenger service between Chico, Willows and intermediate points	April 29, 1927
18334	13182	Nevada Irrigation District	To have Commission fix just compensation to be paid to Pacific Gas and Electric Company for water system	May 6, 1927
18351	13565	E. C. Peck	To operate motor bus and truck service between San Francisco and San Bruno and between Newark and Fresno, Stockton and Bakersfield	May 13, 1927
18378	11317	J. H. Pullian	To operate motor truck service between Yucaipa, Colton and San Bernardino and intermediate points thereto and Los Angeles	May 17, 1927
18384	13426	American Railway Express Company	To close its agency at Laguna Beach	May 18, 1927
18385	13664	Paul Richard Ely	To operate auto passenger service between Riverside and March aviation fitld	May 18, 1927
18432	9453	Pacific Gas and Electric Company	To increase water rates in city of Stockton and adjacent territory	June 1, 1927
18455	13735	The Western Pacific Railroad Company	To construct spur track at grade across Fourth Street, and across Fourth and Fifth Streets in city of Sacramento	June 1, 1927

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TABLE C—AUTO STAGE APPLICATIONS.

Dec. No.	App. No.	Applicant	Nature of proceedings	Action	Date
17708	13339	Wayne Etter and Henrietta P. Conner	Former to sell to latter auto passenger and freight line operated between Lewiston and Minersville, Trinity County	Granted	Dec. 3, 1926
17709	13348	John B. Enos and Samuel Jackson	Former to sell to latter an auto passenger and freight line between Peanut and Weaverville, Trinity County	Granted	Dec. 3, 1926
17710	13354	E. C. Litten and R. B. McCrary	Former to sell to latter an auto passenger and freight line between Patterson, Newman, Crows Landing and Modesto	Granted	Dec. 3, 1926
17727	11708	Plen Mathews and Fred Sutherland	Former to sell to latter auto stage line between Coronado and Imperial Beach; latter to extend operative rights from Imperial Beach to Tia Juana, etc., petition for rehearing	Denied	Dec. 8, 1926
17734	13346	Chris Mattly and Gottlieb Mattly	Former to sell to latter undivided one-fourth interest in auto passenger stage line between Bakersfield and Taft	Granted	Dec. 10, 1926
17749	13318	Union Traction Company and Auto Transit Company	Former to transfer to latter auto bus line between Santa Cruz and Capitola, and Santa Cruz and Twin Lakes and intermediate points	Granted	Dec. 11, 1926
17754	11698	Ray A. Anderson	To operate auto truck service from Pomona, Claremont, Ontario and Cucamonga to Los Angeles and Los Angeles Harbor	Granted	Dec. 13, 1926
	11959	National Warehouse Company	To operate between Hemet and Banning and Los Angeles and Los Angeles Harbor	Denied	Dec. 13, 1926
17755	11970	R. J. Thompson	To operate motor freight service for transportation of musical instruments and pianos from Los Angeles harbor to Los Angeles	Granted	Dec. 13, 1926
	12270	Fay W. Hardin	To operate motor freight service in southern California	Dismissed	Dec. 13, 1926
17756	12254	Lamb's Transfer	To operate motor freight service in southern California	Dismissed	Dec. 13, 1926
17757	13156	C. E. Trueblood and Carl B. Trueblood	To operate auto truck service between Los Angeles and Wilmington, Long Beach and Wilmington, and Long Beach and Los Angeles	Granted	Dec. 13, 1926
17761	11188	Coast Truck Line	Former to sell to latter one-half interest in auto truck line between Los Angeles and Whittier	Granted	Dec. 13, 1926
17784	12967	Lewis A. Monroe, Agent for Motor Transit Company, Motor Coach Company, et al.	For rehearing of application for certificate to extend its termini at Los Angeles and Riverside	Denied	Dec. 13, 1926
17787	13380	George F. Hellmuth (Scott Valley Auto Line)	To establish through joint passenger fares	Granted	Dec. 20, 1926
17797	11275	Caesar Pelligrini	To sell and George William Smith, William M. Smith and Ralph S. Smith, to purchase auto passenger and package line operated between Yreka and Etna	Granted	Dec. 20, 1926
17800	12879	C. A. Coykendall and J. F. Morgenthaler	o operate auto truck line between Tunitas, Montara and intermediate points and San Francisco; Half Moon Bay to Colma via San Mateo	Granted	Dec. 23, 1926
17804	13393	Clyde S. Dayton and Pasquale Calcagno	o operate auto stage service between Chester and Belden via Longville, Plumas County	Granted	Dec. 23, 1926
17806	12619	Wilbur Springs Stage Company	Former to sell to latter auto passenger and freight line between Bradley and Bryson	Granted	Dec. 23, 1926
17807	13398	H. G. Ray	To operate auto stage service between Wilbur Springs, Clear Lake Oaks and Lower Lake and intermediate points	Granted	Dec. 27, 1926
17818	12073	John W. Hills	To sell and Frank Munoz, A. Torrescano and C. Lagasphy, to purchase an auto freight line between San Diego and Tia Juana	Granted	Dec. 27, 1926
			To operate auto freight service between Chico, Butte County, and Orland, Glenn County	Granted	Dec. 30, 1926

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17819	12011	John Shrode	To operate motor freight service between Coachella Valley and Los Angeles	Granted	Dec. 30, 1926
17833	11094	Deysher and Lafargue	To operate auto truck line between Reclamation-Novato and City and County of San Francisco	Granted	Jan. 5, 1927
17834	13089	George R. Zurfluh (Sacramento-Fair Oaks Stage Line)	To operate auto freight service between Sacramento and American River hydro-electric dam site, as extension of service between Sacramento and Fair Oaks	Granted	Jan. 5, 1927
17835	13396	George Wm. Smith	To sell and Ralph B. and William M. Smith, to purchase one-half interest in an auto passenger and freight line operated between Etna and Forks of Salmon, and also similar line between Orleans Bar and Forks of Salmon via Somes Bar, Siskiyou County	Granted	Jan. 5, 1927
17841	11057	Robert V. Hardie	To re-open proceeding regarding application for certificate to operate auto truck service between Los Angeles Harbor district and Glendale, Eagle Rock and Burbank	Denied	Jan. 5, 1927
17844	10557	Clarence Smith	To operate auto truck service between San Jose, on the one hand, and Boulder Creek, Salinas, Carmel, Hollister, Watsonville, San San Francisco, Oakland, Fresno, Sacramento, San Juan and Pacific Grove, and intermediate points, on the other hand	Denied	Jan. 6, 1927
17856	10628	Acme Transfer Company (A. M. Thatcher)	To operate auto freight service between San Francisco, Oakland and Sacramento and intermediate points via Vallejo	Granted	Jan. 10, 1927
17859	13450	Carrie Happe	To acquire auto truck line formerly operated by A. J. Happe (deceased) between Yucaipa Valley territory and other points and Los Angeles and Los Angeles harbor	Granted	Jan. 11, 1927
17871	13444	F. F. Balzer (Diamond Transport and Storage Company)	To sell and Marr Freight Transit, Inc., to purchase, auto freight line between Los Angeles and Los Angeles harbor	Granted	Jan. 12, 1927
17884	12240	Charles Kuppinger Company	To operate auto truck service between Lakeport and Clear Lake resorts, on the one hand, and Ukiah, Hopland, Cloverdale, Healdsburg, etc., on the other hand	Granted	Jan. 12, 1927
17885	12656	Gilroy Express (James Bell and Charles Griffin)	To operate auto freight service between Oakland, San Jose, Coyote, Madrone, Morgan Hill, San Martin, Gilroy, etc.	Denied	Jan. 12, 1927
17888	13258	Kernville Stage Company	To operate auto passenger, express, baggage and freight service between Bakersfield and Bodfish, Isabella and Kernville via K. R. No. 1 Power House, Democrat Hot Springs, Hobo Springs and Borel Power House, and discontinue present route by way of Walker's Basin and Havilah	Granted	Jan. 12, 1927
17889	13320 13374	Harry Moumjian Bob Arutoff	To operate auto milk freight line between Los Angeles and Wilmington To operate auto truck service between Los Angeles and certain points in Wilmington district, as extension of present service	Denied Granted	Jan. 12, 1927 Jan. 12, 1927
17892	13436	Frank Glassburner	To operate auto passenger and freight service between Red Bluff and Lyonsville	Granted	Jan. 12, 1927
17894	13455	City Auto Express and Drayage Company	To transfer operative rights and property for auto truck line between San Francisco, Colma, Salada, and Pedro Valley, to Angelo Villanti, a partner of said company	Granted	Jan. 12, 1927
17916	11777	Liberty Transfer and Storage Company	To operate auto truck service between Sacramento and Redding, Nevada City and Colfax, Placerville, San Francisco and Fresno	Granted	Jan. 18, 1927
17918	13322	Gerald Cuneo and Charles E. Stewart	Former to sell to latter operating right for auto passenger and express service—Valley Springs and Mokelumne Hill	Granted	Jan. 18, 1927
17926	13478	Hutchens and Burgard	To sell and J. J. Burgard to purchase, auto passenger and freight line between Bridgeville, Humboldt County and Ruth, Trinity County	Granted	Jan. 26, 1927

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TABLE C—AUTO STAGE APPLICATIONS—Continued.

Dec. No.	App. No.	Applicant	Nature of proceedings	Action	Date
17928	12758	C. W. Gregory	To operate auto freight service between Santa Cruz and San Francisco, or between Giant and Santa Cruz	Denied	Jan. 26, 1927
17944	13488	A. Frandrup and O. N. Pauly	Former to sell to latter auto passenger or freight line—Marysville and La Porte	Granted	Jan. 28, 1927
17947	12024	Tolson Transportation System, Inc.	To operate auto truck service between Long Beach and Los Angeles Harbor district via Anaheim Road	Granted	Feb. 2, 1927
17972	12011	John Shrode	Motor Service Express for rehearing of Shrode's application to operate auto freight service between Los Angeles and Coachella Valley	Denied	Feb. 7, 1927
17973	12656	James Bell and Charles Griffin (Gilroy Express)	For rehearing of application to operate auto freight service between Oakland and Gilroy	Denied	Feb. 7, 1927
17981	13516	Smith Automobile Company	To operate auto freight service between Mammoth and June Lake and Silver Lake, Mono County, as extension of present service between Bishop and Mammoth	Granted	Feb. 8, 1927
17999	12709	Sequoia and General Grant National Parks Company	Petition for rehearing of application to operate between Visalia and Exeter and Sequoia National Park boundary, etc.	Denied	Feb. 11, 1927
18004	13525	E. J. Moomey and Joaquin Lopez	Former to sell to latter auto passenger or freight line between Nevada City and Washington, Nevada County	Granted	Feb. 14, 1927
18011	13404	Highway Transport Company	To extend operative rights to permit hauling of fresh fruits and vegetables, poultry and eggs northbound from Aptos, to Betabel to Santa Cruz, inclusive, from territory already served	Denied	Feb. 23, 1927
18021	13334	Clark Brothers	To operate general freight service between Oakland, Emeryville and San Leandro, and Watsonville and Aptos and Betabel, as extension of present service	Granted	Feb. 23, 1927
18025	11801	Coastside Transportation Company	To operate auto passenger, baggage, freight and express service between all termini and intermediate points on present routes, and the consolidation and unification of transportation service between San Francisco and Pescadero; between Pescadero and Santa Cruz; also to operate friight and express service only between Half Moon Bay and San Mateo; also freight and express service only between San Francisco and Half Moon Bay via San Mateo	Granted	Feb. 24, 1927
18044	10684	San Francisco-Sierra Motor Coach Lines	Petition for rehearing to operate motor bus passenger service between San Francisco and Carl Inn and San Francisco Recreation Park, and a motor truck service between Chinese and Mather and Peach Growers	Denied	Mar. 2, 1927
18047	12859	United Parcel Service of Los Angeles, Inc.	To extend pick-up service in Los Angeles to include entire city proper	Granted	Mar. 4, 1927
18049	10087	Pacific Electric Railway Company	To abandon operation of its Clearwater-Bellflower, its Rosemead-San Gabriel and its Del Mar-New Avenue motor coach lines	Granted	Mar. 14, 1927
18050	12562	W. H. Pimentel	To extend present bus service between Sacramento, North Sacramento, Hagginwood and Martin's Store to junction of Rio Linda Boulevard and South Avenue, Del Paso Heights, Sacramento County	Denied	Mar. 14, 1927
18051	13043	Pacific Electric Railway Company	To discontinue motor coach service between Twentieth Street and Long Beach Avenue, city of Los Angeles, and Union Stockyards in county of Los Angeles	Granted	Mar. 14, 1927

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18052	13231	Mt. Lassen Transit Company	To operate auto stage and truck line between Keddie and Quincy and intermediate points in county of Plumas	Granted	Mar. 14, 1927
18061	13269	Calistoga and Clear Lake Stage Company	To operate motor stage line between Sacramento and Middletown and intermediate points between May 1 and October 31 only in each year, as extension of existing operation between Calistoga and Lake County points	Granted	Mar. 14, 1927
18069	13535	Glenn W. Barnes	To sell to C. F. Haguewood and T. H. Adams an auto passenger line operated between Los Angeles and Bandini	Granted	Mar. 14, 1927
18070	13560	J. O. Ernst and Los Angeles and San Pedro Transportation Company	Former to sell to latter auto freight line operated between Wilmington, San Pedro and Los Angeles and Long Beach	Granted	Mar. 14, 1927
18071	13562	Glenn W. Barnes and J. B. Stimson	Former to sell to latter auto passenger line operated between intersection of Lorena Street and Whittier Boulevard, Los Angeles, and intersection of Fifty-fourth Street and Atlantic Boulevard, Maywood	Granted	Mar. 14, 1927
18072	13568	F. A. Minaker and Ray O. Holloway	Former to sell to latter one-half interest in an auto passenger and freight line between Porterville and Camp Nelson, Tulare County	Granted	Mar. 14, 1927
18078	12354	H. E. Holmes and H. B. Holmes	Petition of Pioneer Gibson Express and Highway Transport Company, protestants, for rehearing of application of Holmes to operate auto freight truck service between San Francisco, Robertsville, San Jose, Los Gatos and intermediate points	Denied	Mar. 14, 1927
18092	13582	Pickwick Stages System and Kern County Transportation Corporation	Former to lease to latter operating rights for auto passenger and express matter between Bakersfield and Paso Robles, and between Taft, Lost Hills and Coalinga	Granted	Mar. 21, 1927
18096	9631	Richards Trucking and Warehouse Company	To operate auto freight service between Wilmington and San Pedro (Los Angeles Harbor) and Fullerton, Anaheim and Santa Ana and certain intermediate points	Denied	Mar. 21, 1927
18098	12914	Charles Kuppinger	To operate auto truck line between Lakeport and Ukiah via Scotts Valley, and between Lakeport and Upper Lake as part of present service between Ukiah and Lucerne	Granted	Mar. 21, 1927
18099	13588	V. C. Gorst, H. N. Richards and H. W. Lowell (Vallejo Bus Company)	To transfer interests of Gorst and Richards to Lowell in auto passenger service operated between Vallejo and Bay Terrace and Vallejo Annex	Granted	Mar. 21, 1927
18100	12706	John Smalley (Stockton-Jackson Auto Line)	To operate auto stage and truck line between Jackson and California-Nevada State Line, provided no passenger, express or freight service shall be rendered between Jackson and Ranger Station	Granted	Mar. 21, 1927
	12886	Enrico N. Cuneo	To operate auto passenger line between Cook's Station and Ranger Station, as extension of present service	Granted	Mar. 21, 1927
18113	13370	A. J. Richardson and Glendale and Verdugo Hills Express Company	Former to transfer to latter operative rights for auto freight service between Los Angeles, Glendale and Sunland, and the latter to issue capital stock in payment therefor	Granted	Mar. 28, 1927
18121	12947	United Parcel Service of Los Angeles, Inc.	To conduct pick-up service for packages and parcels not exceeding 100 pounds in weight within cities of Long Beach and Pasadena and to transport same to all points on its several routes	Granted	Mar. 29, 1927

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TABLE C—AUTO STAGE APPLICATIONS—Continued.

Dec. No.	App. No.	Applicant	Nature of proceedings	Action	Date
	10148	Asbury Truck Company	To operate auto truck service, on demand, in territory south of an east and west line drawn through city of Fresno, excluding any service to San Bernardino and San Jacinto mountain points, which will include all points beyond San Bernardino, Highlands, Redlands, Riverside, etc.	Granted	Mar. 31, 1927
18150	10307	J. A. Clark Draying Company	To operate an auto truck line between Los Angeles, Wilmington and San Pedro and intermediate points	Granted	Mar. 31, 1927
	10683	Stacey's Transfer and Storage Company	To operate auto truck service in lieu of all rights heretofore granted by Commission, from Cabazon, Banning, Beaumont, Yucaipa, Redlands, Highlands, Crofton, Redlands Junction to Ontario and Pomona, or to Los Angeles Harbor points, etc.	Granted	Mar. 31, 1927
	10858	Wilmington Transfer and Storage Company	To operate an on demand freight service between points in southern California for specified commodities	Granted	Mar. 31, 1927
	10859	Lee B. Hawkins	To operate an on demand service for specified commodities between points in southern California	Granted	Mar. 31, 1927
18156	13268	Los Angeles Railway Corporation	To operate motor coach service between Seventh and Los Angeles Streets, Los Angeles	Granted	April 4, 1927
18158	13435	San Joaquin Valley Transportation Company (F. M. Hodge, John D. Kwis and H. A. Rose)	To increase class rates 5 per cent, and commodity rates, with exceptiona of rates applicable to butter, eggs and cheese, 10 per cent	Granted	April 4, 1927
18173	11333	John C. Weldon	To operate auto truck service between Corcoran, Kings County, and points within a radius of 200 miles thereof	Denied	April 6, 1927
18180	13590	Tolson Transportation System	To discontinue operation of an auto truck service between Los Angeles and El Monte	Granted	April 6, 1927
18184	12405	Mt. Lassen Transit Company	To operate freight service over all routes now giving passenger and express service in the counties of Tehama, Butte, Plumas and Lassen	Denied	April 7, 1927
18185	12530	Pacific Electric Railway Company	To discontinue operation of Lamanda Park–Michillinda motor coach line	Granted	April 7, 1927
18186	12681	Pacific Electric Railway Company	To discontinue operation of portion of motor bus service between Long Beach and Venice, Los Angeles County	Granted	April 7, 1927
18187	12847	G. C. Scribner and George A. Bigard	To operate auto truck service between San Francisco, Oakland, San Jose and Gilroy, on the one hand, and Fresno and Visalia and certain intermediate points, on the other hand	Denied	April 7, 1927
18188	13024	Collins and Heindel (Rubicon Route Stage Line)	To operate auto stage line between Auburn and McKinney's	Denied	April 7, 1927
	13117	G. R. Spickard and Geo. A. Colwell (Rubicon Springs Stage)	To operate auto stage line between Rubicon Springs and Auburn	Denied	April 7, 1927
18189	13419	J. Barrere Company	To operate auto truck service for transporting milk and cream between Manteca and Oakdale, excluding points served by present carriers, as extension of present service	Granted	April 7, 1927
18194	13634	Amy G. Harvey and T. B. Wilson	Former to sell to latter auto passenger and freight line between Santa Cruz and Boulder Creek	Granted	April 7, 1927
18199	13629	Lake County Transportation Company (George S. Held)	To issue promissory note for $1,000 to refund outstanding indebtedness due the Bank of Lake	Granted	April 7, 1927

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18210	11423	E. N. Matson	To operate auto truck line between West Point and Martell	Granted	April 11, 1927
			To operate auto truck line between Stockton and points east of Jackson to West Point	Denied	April 11, 1927
18211	13081	F. M. Hodge and Henry N. Hodge	Former to transfer to latter 85 per cent interest in auto freight line between Fresno and Los Angeles, and for a transfer of all rights for such line to a co-partnership consisting of Henry N. Hodge and H. A. Rose	Denied	April 11, 1927
18212	13249	C. A. Johnson	To operate auto passenger service between Sausalito and Sebastopol and intermediate points	Denied	April 11, 1927
18213	13645	Leslie Hardie and J. W. Lemen	Former to sell to latter auto passenger and freight line between Paso Robles and Klau and intermediate points	Granted	April 11, 1927
18216	11568	Richards Trucking and Warehouse Company	To operate an auto truck service between Los Angeles and Olinda, Richfield, Yorba Linda, Villa Park, Olive, El Modena and Santa Fe Springs	Granted	April 11, 1927
18221	13635	H. Nicholson and A. W. Schmitt	Former to sell to latter his one-half interest in an auto stage service between Livermore and Arroyo Sanitarium	Granted	April 13, 1927
18232	11218	Al G. Witt	To operate auto truck line between San Francisco and Campbell	Granted	April 14, 1927
18233	13658	Bob Arutoff	To sell and Sarop Meketaroff and M. Alex to purchase an auto freight line operated between Los Angeles and Athens, Gardena, Rosecrans and Wilmington and adjacent territory	Granted	April 14, 1927
18244	13693	C. O. Goold	To sell and W. E. Spoon and A. J. Mason to purchase an auto passenger line between Carmel and Monterey	Granted	April 15, 1927
18245	11728	Inter-Mouniain Stage Lines (F. W. Riecks)	To operate auto stage line between Stockton and Merced Falls	Denied	April 16, 1927
18246	13626	R. C. Dear and Charles E. Sansome	Former to sell and latter to purchase an auto passenger and express line between Taft, Fellows and McKittrick	Granted	April 16, 1927
18263	13707	Wheeler's Hot Springs Stage Line (Murray D. Bayles)	To sell to Paul Derkum an auto passenger and express line between Los Angeles and Wheeler's Hot Springs	Granted	April 20, 1927
18269	11801	Coastside Transportation Company	For rehearing of application to operate various auto freight lines and consolidate and unify its service	Denied	April 20, 1927
18270	13269	Calistoga and Clear Lake Stage Company	Petition of Beverly Gibson and E. F. Gardner, protestants, for rehearing of application for certificate to operate auto stage line between Sacramento and Middletown and intermediate points	Denied	April 20, 1927
18275	12891	W. G. Lawrence and Gilbert Estes	To operate auto passenger and express service between Susanville and Alturas, serving Johnsonville, Standish, Litchfield, Ravendale, Thermo, Madeline, Lively	Granted	April 26, 1927
18276	12925	Adam A. Moore	To operate auto truck line between Ukiah and Lucerne, serving Le Trianon, Blue Lakes, Camp Innis, Laurel Dell. etc.	Granted	April 26, 1927
18277	13427	Hops Sales Corporation	To operate auto truck service between Sacramento and Jackson	Denied	April 26, 1927
18280	13695	California Transit Company	To lease to Kern County Transportation Corporation and Boyd and Mattly operating right for auto stage service between Taft and Greenfield	Granted	April 26, 1927
			Boyd and Mattly and Kern County Transportation Corporation to reroute certain schedules now being operated between Bakersfield and Taft by way of Panama, to serve Greenfield	Granted	April 26, 1927
18290	12317	Newton and Biggert	To have operative rights validated for auto truck service between San Jose and Hollister and intermediate points	Granted	April 29, 1927
18293	13551	Fred Ludekens and Inter-Urban Express Corporation	Former to sell and transfer to latter operating rights for auto freight service between Oakland and Martinez	Granted	April 29, 1927

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TABLE C—AUTO STAGE APPLICATIONS—Continued.

Dec. No.	App. No.	Applicant	Nature of proceedings	Action	Date
18294	13721	John Cheap	To discontinue operation of auto stage service between Oxnard and Montalvo	Granted	April 29 1927
18300	11601	Angelo Piccardo and Andrea Piccardo	To operate auto truck service between Martel and Jackson	Granted	April 29, 1927
	12839	Frank Word	To operate auto truck service between Stockton and Martel	Denied	April 29, 1927
18314	12840	Frank Word and William Spaletta, Jr.	To operate auto stage line between California-Nevada state line on Reno highway south of Reno Junction, serving Loyalton, Sierraville and Sattley, and intermediate points between Chilcoot and Sattley To operate auto stage and truck line between Chilcoot and Downieville, serving Loyalton, Sierraville, Sattley, Sierra City and intermediate points, provided that inbound freight shipments exceeding 300 pounds shall not be transported from Chilcoot to Loyalton	Granted Granted	May 3, 1927 May 3, 1927
18330	13660	Motor Transit Company	To operate auto stage service between Los Angeles and points intermediate between Los Angeles and San Bernardino (on both the Valley and Foothill Boulevards) and Big Bear Valley points, etc.	Granted	May 6, 1927
18333	13738	Raymond H. Penhall and R. E. Robson	Former to sell to latter auto freight line operated between Cudahy, Workman, County Farms and Los Angeles	Granted	May 6, 1927
18336	13056	Pacific Electric Railway Company	To operate auto stage service between Castellammare and Los Angeles, serving Pacific Palisades, Uplifters, Riviera, Los Angeles Athletic Country Club, Brentwood, etc., originally applied for by Francis Brunner	Granted	May 6, 1927
18344	13648	Carl W. Lewis	To lease and sell to A. J. and B. C. Tucker, copartners, an auto passenger and freight line operated between Etna and Gazelle	Granted	May 13, 1927
18352	13747	Besone's Motor Express	To sell and transfer to Emil Bonenso and Frank Caudana, copartners, operating rights for auto truck line between Bakersfield and Taft, Maricopa and McKittrick and intermediate points	Granted	May 14, 1927
18353	13748	George J. Carr	To operate auto express service between Redwood City and San Gregorio	Granted	May 14, 1927
18354	13757	California Transit Company	To lease to Charles E. Sansome operative rights for auto passenger service between Taft and Maricopa	Granted	May 14, 1927
18369	11519	C. F. Haguewood, T. H. Adams and Zed Haguewood	To operate auto stage service between East Montebello Gardens and Union Bus Terminal at 4344 Whittier Boulevard, and intermediate points	Denied	May 17, 1927
18381	13262	E. F. Gardner (Monticello Stage Company)	To operate auto stage and truck line between Monticello and Winters serving intermediate points of Camp North, Ellston, County Line and Recreation Beach	Granted	May 18, 1927
18387	13779	Enrico N. Cuneo and White Brothers	Former to sell to latter auto passenger and freight line operated between Jackson, Pine Grove and Volcano	Granted	May 24, 1927
18390	13786	T. B. Wilson (Boulder Creek Stage Line)	To operate auto passenger and baggage service between Felton and Felton Station and between Rincon and Big Trees, in conjunction with present service between Santa Cruz and Boulder Creek	Granted	May 25, 1927
18392	13764	Motor Transit Company	To operate auto truck service for transportation of general freight and kerosene, gasoline and distillates originating at or destined to Victorville between Victorville and points in Big Bear Valley	Granted	May 25, 1927
18403	13316	Victoria Misetich	To operate auto passenger service between Sacramento and Riverbank and Carly Acres	Denied	May 25, 1927

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18405	13682	I. J. McIntyre	To operate auto truck service between certain territory and city of Long Beach, as enlargement of present operations	Granted	May 25, 1927
18406	13691	J. B. Hanna, Public Administrator of San Bernardino County, as administrator of the estate of D. T. McElhaney	To sell to K. M. Stevenson and Paul Shafer an auto truck line operated between Colton and San Bernardino and Barstow, Daggett, Yermo and intermediate points, and the latter to acquire same and consolidate said lines with present operations	Granted	May 25, 1927
18410	13769	J. M. Correia and Albert T. Spencer	Former to sell to latter auto freight line operated between Hynes, Clearwater, Artesia, Norwalk and Los Angeles	Granted	May 25, 1927
18443	12938	H. E. and P. W. Holmes (Garden Highway Truck Line)	To operate auto freight service between Sacramento and Yuba City, and Sacramento and Marysville, as extension of present service to certain intermediate points between Sacramento and Marysville	Denied	June 1, 1927
18449	13597	Highway Transport Company	To place in effect revised rates, rules and regulations to provide for more efficient and economic operation	Granted	June 1, 1927
18452	13810	Silas J. Bivins and Wesley H. Pfost	Former to sell to latter auto freight line operated between Blythe and Palo Verde	Granted	June 1, 1927
18460	9040	Coast Truck Line	To operate auto truck service between San Diego and Oceanside, via San Luis Rey, Bonsall, Vista, San Marcos, Richland, Escondido, Bernardo and Miramar	Denied	June 3, 1927
18461	13817	Joseph Wilson (Pioneer Stage)	To sell to Antone D. Motto (San Luis-Avila Auto Stage Service) auto passenger and freight line operated between San Luis Obispo and Pismo	Granted	June 3, 1927
18462	13822	Clyde Hooper and S. M. Thomas	Former to sell to latter his one-half interest in auto freight line between Healdsburg and Santa Rosa	Granted	June 3, 1927
18463	13829	T. B. Wilson	To sell and Southern Pacific Motor Transport Company to purchase Boulder Creek Stage Line operated between Santa Cruz and Boulder Creek	Granted	June 3, 1927
18466	12947	United Parcel Service of Los Angeles, Inc.	Petition of Donovan Transportation Company, Rice Transportation Company and Triangle, Orange County and Santa Ana Express, protestants, for rehearing of application to extend operative rights of United Parcel Service of Los Angeles, Inc., to include the cities of Long Beach and Pasadena	Denied	June 3, 1927
18468	11754	George Avellar	For rehearing of application to operate auto truck service between points in Sonoma and Alameda counties	Denied	June 3, 1927

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TABLE D—GRADE CROSSINGS.

Dec. No.	App. No.	Applicant (and other parties)	Location	Action	Date
17697	13306	The Atchison, Topeka and Santa Fe Railway Company (city of San Diego)	California street	Granted	Dec. 2, 1926
17711	13326	Southern Pacific Company (city of Los Banos)	H Street	Granted	Dec. 3, 1926
17715	13358	Southern Pacific Company (county of Sacramento)	Redding Avenue, vicinity of Brighton	Granted	Dec. 6, 1926
17720	13345	Pacific Electric Railway Company (county of Los Angeles)	Wilmington Avenue	Granted	Dec. 7, 1926
17726	13360	Southern Pacific Company (city of San Jose)	Jackson street	Granted	Dec. 8, 1926
17737	13344	The Atchison, Topeka and Santa Fe Railway Company (city of Richmond)	Eighth, Commercial and Dock Streets	Granted	Dec. 10, 1926
17738	13367	The Western Pacific Railroad Company (city and county of San Francisco)	Langton Street	Granted	Dec. 10, 1926
17745	12810	County of San Joaquin (Tidewater Southern Railway Company and The Western Pacific Railroad Company)	Sections 24 and 25 Weber Grant	Granted	Dec. 11, 1926
17771	13310	The Atchison, Topeka and Santa Fe Railway Company (city of La Verne, Los Angeles County)	G Street	Granted	Dec. 20, 1926
17811	13411	Los Angeles and Salt Lake Railroad Company (city of Los Angeles)	Soto, Alosta, Pitt and Allgeheny Streets	Granted	Dec. 28, 1926
17821	13386	Southern Pacific Company (city of Turlock)	Minerva Street	Granted	Dec. 30, 1926
17822	13388	The Atchison, Topeka and Santa Fe Railway Company (city of Vernon)	Atlantic Avenue	Granted	Dec. 30, 1926
17823	13413	Holton Inter-Urban Railway Company (city of Holtville)	Alley in Block 39	Granted	Dec. 30, 1926
17829	13337	Los Angeles and Salt Lake Railroad Company (city of Long Beach)	Cherry Avenue	Granted	Dec. 31, 1926
17837	13352	The Corona and Santa Fe Railway Company (county of Riverside)	County roads	Granted	Jan. 5, 1927
17839	13379	Southern Pacific Company (city of Los Angeles)	Market and Gault Streets	Granted	Jan. 5, 1927
17840	13403	City of Los Angeles (Pacific Electric Railway Company) (elevated structure)	Pico Boulevard, Tremaine Avenue and Longwood Avenue	Granted	Jan. 5, 1927
17850	13375	County of Mendocino (Northwestern Pacific Railroad Company)	Moore Street (Calpella Village)	Granted	Jan. 6, 1927
17851	13036	Pacific Electric Railway Company (city of San Bernardino)	Third Street	Granted	Jan. 6, 1927
17854	13363	The Atchison, Topeka and Santa Fe Railway Company (city of Corona)	Pearl Street	Granted	Jan. 8, 1927
17855	12432	County of Merced (Central Pacific Railroad)	Vicinity of Arena Station	Denied	Jan. 10, 1927
17867	10649	Los Angeles Junction Railway Company (city of Vernon)	Fruitland Avenue	Denied	Jan. 12, 1927
	13219	Los Angeles Junction Railway Company (city of Vernon)	Fruitland Avenue	Granted	Jan. 12, 1927
17875	13397	The Atchison, Topeka and Santa Fe Railway Company (city of Los Angeles)	Sixth Street, near Mateo Street	Granted	Jan. 12, 1927
17897	13415	The Western Pacific Railroad Company (city of Stockton)	Scotts Avenue and Madison Street	Granted	Jan. 12, 1927
17898	13459	County of San Mateo (Southern Pacific Company)	Broadway	Granted	Jan. 12, 1927
17913	12748	County of Merced (Southern Pacific Railroad)	Between Newman and Gustine	Granted	Jan. 18, 1927
17924	13470	Pacific Electric Railway Company (city of Long Beach)	Commercial Avenue	Granted	Jan. 25, 1927
17932	13439	The Western Pacific Railroad Company (city of Oakland)	Forty-third Avenue	Granted	Jan. 26, 1927
17933	13468	Southern Pacific Company (city of Salinas)	Cattlemen's Lane	Granted	Jan. 26, 1927
17966	13331	County of San Diego (San Diego and Arizona Railway Company)	Golden Avenue	Granted	Feb. 7, 1927
17984	13417	County of Los Angeles (Los Angeles and Salt Lake Railroad Company)	Beverly Boulevard (overhead)	Granted	Feb. 8, 1927
18013	13476	The Atchison, Topeka and Santa Fe Railway Company (Town of Highland)	Palm Avenue	Granted	Feb. 23, 1927
18017	13507	Sacramento Northern Railway (city of Sacramento)	Thirty-first Street	Granted	Feb. 23, 1927
18018	13528	The Atchison, Topeka and Santa Fe Railway Company (city of Richmond)	Ninth Street	Granted	Feb. 23, 1927

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18057	13467	County of San Diego (San Diego and Arizona Railway Company)	La Corta and Ramon Streets	Granted	Mar. 14, 1927
18059	13552	Southern Pacific Company (city of San Leandro)	Thornton Street	Granted	Mar. 14, 1927
18063	13333	City of Oakland (Southern Pacific Company and Central Pacific Railway Company)	Eighty-ninth Avenue	Granted	Mar. 14, 1927
18083	13536	The Western Pacific Railroad Company (city of Stockton)	Van Buren Street	Granted	Mar. 21, 1927
18088	13534	The Atchison, Topeka and Santa Fe Railway Company (city of Visalia)	North East Street	Granted	Mar. 21, 1927
18090	13575	Tidewater Southern Railway Company (city of Modesto)	D and E Streets	Granted	Mar. 21, 1927
18091	13578	Southern Pacific Company (city of Madera)	E Street	Granted	Mar. 21, 1927
18093	13585	Southern Pacific Company (city of Sacramento)	Fourteenth Street	Granted	Mar. 21, 1927
18104	13385	California Highway Commission (The Atchison, Topeka and Santa Fe Railway Company)	Serra, Orange County (undergrade)	Granted	Mar. 25, 1927
18105	13519	Sears Point Toll Road Company (Northwestern Pacific Railroad Company)	Near Sears Point, Sonoma County	Granted	Mar. 25, 1927
18118	13619	Southern Pacific Company (county of San Joaquin)	Olive and Augusta Streets (Woodbridge)	Granted	Mar. 29, 1927
18133	13414	County of Fresno (Fresno Traction Company)	Fountain Way Avenue and Wishon Avenue	Granted	Mar. 30, 1927
18134	13420	Southern Pacific Company (city of Berkeley)	The Alameda, Solano Avenue and Colusa Ave.	Granted	Mar. 30, 1927
18135	13445	County of Los Angeles (Pacific Electric Railway Company)	Wilmington Avenue	Granted	Mar. 30, 1927
18136	13446	County of Los Angeles (Pacific Electric Railway Company)	Bogart Avenue	Granted	Mar. 30, 1927
18137	13464	Town of Antioch (The Atchison, Topeka and Santa Fe Railway Company)	Near First Street	Granted	Mar. 30, 1927
18142	13600	Southern Pacific Company (city of Albany)	Solano Avenue	Granted	Mar. 30, 1927
18143	13601	Southern Pacific Company (city of El Centro)	Third Street	Granted	Mar. 30, 1927
18144	13614	County of Napa (San Francisco, Napa and Calistoga Railway)	Jefferson Street	Granted	Mar. 30, 1927
18145	13618	Southern Pacific Company (city and county of San Francisco)	Donner Avenue	Granted	Mar. 30, 1927
18146	13621	Southern Pacific Company (city of Alameda)	Blanding Avenue	Granted	Mar. 30, 1927
18168	13606	Southern Pacific Company (city of Oakland)	Twenty-sixth Street and Campbell Street	Granted	April 4, 1927
18169	13623	The Western Pacific Railroad Company (county of Santa Clara)	Auzerais Avenue	Granted	April 4, 1927
18174	13632	Southern Pacific Company (county of Monterey)	Vicinity of Chualar	Granted	April 6, 1927
18182	13607	Southern Pacific Company (city of Salinas)	Cattlemen's Lane	Granted	April 6, 1927
18197	13577	Southern Pacific Company (city and county of San Francisco)	Berry Street	Granted	April 7, 1927
18198	13628	Southern Pacific Company (city of Oakland)	Twenty-ninth Avenue	Granted	April 7, 1927
18225	13638	The Atchison, Topeka and Santa Fe Railway Company (city of Oakland)	Twenty-second and Twenty-fourth Streets	Granted	April 13, 1927
18226	13639	The Atchison, Topeka and Santa Fe Railway Company (city of Oakland)	Wood Street and Twenty-sixth Street	Granted	April 13, 1927
18227	13653	The Atchison, Topeka and Santa Fe Railway Company (city of Oakland)	Campbell and Twentieth Streets	Granted	April 13, 1927
18234	13657	State Department of Institutions of California (Los Angeles and Salt Lake Railroad Company)	Pacific Colony at Spadra, Los Angeles County	Granted	April 14, 1927
18235	13530	City of Culver City (Southern Pacific Company operated by Pacific Electric Railway Company)	Halm Avenue (pedestrian)	Granted	April 14, 1927
18256	13661	The Atchison, Topeka and Santa Fe Railway Company (Kern County)	Near Amargo	Granted	April 20, 1927
18264	13644	Southern Pacific Company (city of Fresno)	M. Los Angeles and Butler Streets	Granted	April 20, 1927
18298	13627	County of Stanislaus (Central Pacific Railroad Company)	Near city of Turlock	Granted	April 29, 1927
18299	13729	Southern Pacific Company (county of Monterey)	Vicinity of Gonzales	Granted	April 29, 1927
18312	13405	City of Fullerton (The Atchison, Topeka and Santa Fe Railway Company)	North Brookhurst Avenue	Granted	May 3, 1927
18313	13563	The Atchison, Topeka and Santa Fe Railway Company (city of Vernon)	Forty-ninth Street and Chambers Street	Granted	May 3, 1927
18316	13594	The Atchison, Topeka and Santa Fe Railway Company (city of Vernon)	East Twenty-sixth Street	Granted	May 3, 1927
18317	13564	Southern Pacific Company (city of Alhambra)	Commonwealth Avenue	Granted	May 3, 1927
18319	13689	The Western Pacific Railroad Company (county of Lassen)	Vicinity of Doyle	Granted	May 3, 1927
18320	13697	Southern Pacific Company (city of Merced)	M and O Streets	Granted	May 3, 1927
18321	13705	Sacramento Northern Railway (city of Chico and county of Butte)	Twentieth Street and Locust Street	Granted	May 3, 1927
~~18322~~	13710	~~Southern Pacific Company (city of San Jose)~~	North Eighth Street	Granted	May 3, 1927
18342	13517	City of San Diego (The Atchison, Topeka and Santa Fe Railway Company)	Rosecrans Street	Granted	May 13, 1927
18343	13598	San Diego and Arizona Railway Company (city of San Diego)	N Street	Granted	May 13, 1927

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TABLE D—GRADE CROSSINGS—Continued.

Dec. No.	App. No.	Applicant (and other parties)	Location	Action	Date
18347	13728	Southern Pacific Company (city and county of San Francisco)	Carroll Avenue and Jennings Street	Granted	May 13, 1927
18356	13480	City of Huntington Beach (Southern Pacific Company)	Hartford Street	Granted	May 14, 1927
18357	13546	City of Torrance (Santa Fe and Los Angeles Harbor Railway)	Sonoma Street	Granted	May 14, 1927
18359	13678	County of Sutter (The Western Pacific Railroad Company)	Vicinity of Rio Oso (undergrade)	Granted	May 14, 1927
18360	13687	County of San Diego (San Diego and Arizona Railway Company)	Vicinity of Grossmont (overgrade)	Granted	May 14, 1927
18361	13688	County of San Diego (San Diego and Arizona Railway Company)	Broadway	Granted	May 14, 1927
18362	13733	Southern Pacific Company (city of Santa Clara)	Bellomy and Franklin Streets	Granted	May 14, 1927
18370	13375	County of Mendocino (Northwestern Pacific Railroad Company)	Moore Street	Granted	May 17, 1927
18382	13620	County of Mono (Southern Pacific Company)	Vicinity of Chalfant	Granted	May 18, 1927
18396	13674	Southern Pacific Company (city of Turlock)	East Olive, North Front and Ruby Streets	Granted	May 25, 1927
18397	13699	Tidewater Southern Railway Company (city of Modesto)	Stoddard Avenue	Granted	May 25, 1927
18398	13789	Southern Pacific Company (vicinity of Watsonville)	Allison Road	Granted	May 25, 1927
18421	13796	The Western Pacific Railroad Company (city of Sacramento)	Fifth Street	Granted	June 1, 1927
18436	13595	The Atchison, Topeka and Santa Fe Railway Company (city of Placentia)	Melrose Street	Granted	June 1, 1927
18438	13751	California Highway Commission (The Atchison, Topeka and Santa Fe Railway Company)	Near Galivan, Orange County (overhead)	Granted	June 1, 1927
18441	13790	The Western Pacific Railroad Company (city of Oakland)	Thirty-third and Thirty-fourth Avenues	Granted	June 1, 1927
18467	13055	Southern Pacific Company (county of Yuba)	Vicinity of Rupert Station	Granted	June 3, 1927

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TABLE E—MISCELLANEOUS AND SUPPLEMENTAL ORDERS.

Dec. No.	App. No.	Applicant	Nature of proceedings	Date
17698	9529	Flintridge Motor Company and Pacific Electric Railway Company	Supplemental order authorizing rerouting of auto passenger service operated by latter company under lease	Dec. 2, 1926
17699	12127	The Atchison, Topeka and Santa Fe Railway Company	Order revoking prior order and dismissing application—spur track extension in and along West Street, city of Berkeley	Dec. 2, 1926
17703	13265	Southern Pacific Company	Authorized to abandon and remove passenger shelter sheds at stations of Cudahy, Vinvale and Carmenita, Los Angeles County	Dec. 3, 1926
17704	13300	Southern Pacific Company	Authorized to abandon and remove station building at non-agency station of San Ramon, Contra Costa County	Dec. 3, 1926
17705	13304	Pacific Electric Railway Company	Authorized to abandon and remove freight shed at Burnett Station, Los Angeles County	Dec. 3, 1926
17712	11820 11928	Motor Service Express Service Motor Express	Supplemental order amending certificate to operate auto truck service	Dec. 3, 1926
17716	3727	J. H. Jacobs	Supplemental order revoking and annulling certificate to operate auto truck service between Sacramento and Winters	Dec. 6, 1926
17717	13174	Pasadena-Ocean Park Stage Line, Inc. and T. C. Gillespie	Supplemental order extending time in which the former shall purchase from the latter operative rights and properties and issue stock	Dec. 6, 1926
17718	13188	California Wharf and Warehouse Company	Approving renewal of wharf franchise granted by Board of Supervisors of Contra Costa County	Dec. 7, 1926
17719	13325	Crescent City Wharf and Dock Company	Approving renewal of wharf franchise granted by Board of Trustees of Crescent City, Del Norte County	Dec. 7, 1926
17729	11845	Russian River Water Company	Supplemental order modifying Decision No. 15649—stock issue	Dec. 10, 1926
17730	13266	Southern Pacific Company	Authorized to abandon and remove spur track at station of Asphalto, Kern County	Dec. 10, 1926
17732	13283	Southern Pacific Company	Authorized to abandon and remove spur track at Seguro, Kern County	Dec. 10, 1926
17733	13299	Southern Pacific Company	Authorized to abandon and remove spur track at Mile 312.2 on Oil City Branch, Kern County	Dec. 10, 1926
17739	13151	Ventura County Railway Company	Supplemental order granting permission to abandon Oxnard-Hueneme branch, authority for such abandonment not being necessary from the Interstate Commerce Commission	Dec. 10, 1926
17740	13291	Pacific Gas and Electric Company	Supplemental order authorizing use of proceeds from sale of stock—Decision No. 16473	Dec. 10, 1926
17742	13111 13112	Thousand Oaks Water Company	Second supplemental order extending effective date of Decision No. 17542	Dec. 10, 1926
17746	12819	Sacramento Northern Railway	Authorized to discontinue street car service partly in city of Chico and partly in county of Butte	Dec. 11, 1926
17750	13364	The Atchison, Topeka and Santa Fe Railway Company	Granting authority to relocate certain tracks in city of Colton, San Bernardino County	Dec. 11, 1926
17753	C2277	E. L. McCapes, Commission's investigation into operations of	Supplemental opinion and judgment granting extension of time in which to pay $20 fine imposed by the Commission for violation of its orders	Dec. 13, 1926
17760	13365	The Atchison, Topeka and Santa Fe Railway Company	Granting authority to reconstruct spur tracks across Fourth Street and portions of Thornton Street in the city of Hanford	Dec. 13, 1926

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TABLE E—MISCELLANEOUS AND SUPPLEMENTAL ORDERS—Continued.

Dec. No.	App. No.	Applicant	Nature of proceedings	Date
17770	13225	Southern Pacific Company	Granting authority to abandon non-agency station of Prince, near Antioch, Contra Costa County	Dec. 20, 1926
17773	12261	Pacific Gas and Electric Company	Supplemental order modifying Decision No. 15782—stock	Dec. 20, 1926
17774	12468	Ward Brothers	Supplemental order revoking and annulling certificate to operate auto freight service between Aptos and Davenport, Santa Cruz, Oakland and San Francisco	Dec. 20, 1926
17775	12796	The Golden Gate Ferry Company	Fourth supplemental order authorizing execution of supplemental mortgage and/or trust indenture to secure bonds	Dec. 20, 1926
17776	12800 13039	Yosemite Park and Curry Company Yosemite Valley Railroad Company	Supplemental order granting extension of time to Yosemite Valley Railroad Company until February 1, 1927, in which to file tariffs and time schedules covering auto stage service	Dec. 20, 1926
17777	12971	Great Western Power Company of California and Pacific Gas and Electric Company	Supplemental order approving transfer by former to latter of certain electrical distributing properties in Seaside and Pescadero School District, San Mateo County (Decision No. 17387)	Dec. 20, 1926
17778	13287	Los Angeles and Salt Lake Railroad Company	Supplemental order amending Decision No. 17677—grade crossings at Indiana and Noakes Streets in city of Los Angeles	Dec. 20, 1926
17779	13340	Key System Transit Company	Supplemental order authorizing use of proceeds from sale of bonds to pay indebtedness—Decision No. 17759	Dec. 20, 1926
17780	C2287	Associated Oil Company vs. Southern Pacific Company	Supplemental order amending Decision No. 17676	Dec. 20, 1926
17790	13123	Truckee River Power Company	Supplemental opinion and order authorizing exercise of franchise to operate in Placer County	Dec. 20, 1926
17791	13145	Truckee River Power Company	Supplemental opinion and order authorizing exercise of franchise to operate in El Dorado County	Dec. 20, 1926
17802	13356	Spring Valley Water Company	Authorized to grant right of way to Great Western Power Company of California over property in San Mateo County	Dec. 23, 1926
17805	13236	Pacific Coast Motor Coach Company	Third supplemental order authorizing use of $3,500 obtained through issue and sale of notes to pay for one 1923 White bus	Dec. 23, 1926
17808	10593	Los Angeles Railway Corporation	Supplemental order amending terminal (Decision No. 14884)	Dec. 27, 1926
17809	12533	E. L. Collett	Supplemental order revoking and annulling certificate to operate auto truck service between Long Beach and Wilmington and between Long Beach and Davidson City	Dec. 27, 1926
17812	9198	Grizzly Electric Company (R. B. Young)	Supplemental order extending time in which to pay note	Dec. 29, 1926
17816	13412	California Water Service Company	Granting authority to issue and sell seven shares of common capital stock	Dec. 29, 1926
17817	13245	Southern Pacific Company	Authorized to abandon station of Forfar, Kern County, and spur track at said station	Dec. 30, 1926
17842	11206	The Western Pacific Railroad Company	Order revoking prior order and dismissing application—grade crossing at Loomis Street, San Bruno Avenue and Holladay Avenue, San Francisco	Jan. 5, 1927
17847	13246	Southern Pacific Company	Authorized to abandon non-agency station of Alcalde, Fresno County	Jan. 6, 1927
17849	C2265	Fairfax Volunteer Fire Department vs. Northwestern Pacific Railroad Company	Directing railroad company to provide adequate shelter station and install automatic flagman at crossing at Fairfax station	Jan. 6, 1927
17852	C2275	Southern Pacific Company, Commission's investigation into vehicular ferry service between San Francisco and Alameda	Denying petition of the Golden Gate Ferry Company for rehearing	Jan. 6, 1927

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17860	9266	City of Fullerton	Supplemental order granting extension of time until April 1, 1927, in which to abandon and close crossing at North Brookhurst Avenue	Jan. 11, 1927
17861	12827	City of Monterey	Supplemental order amending Decision No. 16870, reapportioning cost of constructing grade crossing over tracks of Southern Pacific Company at Figueroa Street	Jan. 11, 1927
17862	13058	Southern Pacific Company	Supplemental order amending Decision No. 17370—grade crossing at Front Street, City of Selma	Jan. 11, 1927
17863	C2182	Gilmore Oil Company, et al. vs. The Atchison, Topeka and Santa Fe Railway Company et al.	Petition of defendants for rehearing denied	Jan. 11, 1927
17868	13243	Southern Pacific Company	Granting authority to abandon non-agency station of LeRoy in Fresno County	Jan. 12, 1927
17873	6027	Erben Henry	Supplemental order revoking and annulling certificate to operate auto express and freight service between Harper Station and Los Angeles	Jan. 12, 1927
17874	7994	W. H. Wimer	Supplemental order revoking and annulling certificate to operate auto freight (lumber only) service between Callahan and Gazelle, Siskiyou County	Jan. 12, 1927
17876	11851	Frank P. Brown	Supplemental order revoking and annulling certificate to operate auto truck service between Los Angeles and points in southern California	Jan. 12, 1927
17878	13072	Wiley J. Gibson and Borderland Express, Inc.	Supplemental order extending time for former to transfer to latter operative rights	Jan. 12, 1927
17879	13104	County of San Joaquin	Supplemental order amending Decision No. 17346—grade crossing	Jan. 12, 1927
17880	13201	Southern Pacific Company	Supplemental order amending Decision No. 17419—grade crossing at Spence Street, city of Monterey	Jan. 12, 1927
17881	13171	Roseville Water Company	Second supplemental order authorizing use of proceeds from sale of bonds—Decision No. 17434	Jan. 12, 1927
17895	13390	Pacific Electric Railway Company	Authorized to discontinue joint use of tracks with The Atchison, Topeka and Santa Fe Railway Company in city of Redondo Beach, and relocate track across Beryl Street and Hermosa Avenue in said city	Jan. 12, 1927
17896	13394	The Petaluma and Santa Rosa Railroad Company	Granted authority to relocate spur track at First Street in city of Petaluma, Sonoma County	Jan. 12, 1927
17900	13210 13224	The Southern Sierras Power Company	Supplemental order amending Decision No. 17488—bonds	Jan. 12, 1927
17901	13261	Haines Canyon Water Company	Supplemental order amending Decision No. 17826—bond issue	Jan. 12, 1927
17902	13295	Tracy Gas Company	Supplemental order ammending decision No. 17769—proceeds from sale of stock	Jan. 12, 1927
17903	C2232	San Francisco Milling Company, Ltd., vs. Southern Pacific Company et al.	Denying complainant's petition for rehearing	Jan. 12, 1927
17908	C2276	Vermont Water Company (B. G. Adams) Commission's investigation into rates, rules, etc. of	Order denying rehearing of Commission's recent decision ordering refund of tap fees collected in violation of Rule 19 of that company	Jan. 17, 1927
17909	13155	City of San Diego	Authorized to construct and extend Forty-seventh Street under tracks of San Diego and Arizona Railway Company	Jan. 17, 1927
17910	13341	California Highway Commission	Authorized to abandon existing highway crossing and build another crossing over tracks of Southern Pacific Company near Tahoe City, Placer County	Jan. 17, 1927
17915	11819	G. W. Stellway	Supplemental order revoking and annulling certificate to operate auto truck service between Los Angeles and Los Angeles Harbor	Jan. 18, 1927
17919	13402	Southern Pacific Company	Granting authority to abandon non-agency station at Linea, Los Angeles County, and also spur track at said station	Jan. 18, 1927
17920	13448	Pacific Electric Railway Company	Granting authority to abandon its present station facilities, relocate station tracks and construct new station facilities, and construct two spur tracks at grade across Third Street and relocate one connecting track across Fourth street in city of Santa Ana, Orange County	Jan. 18, 1927
17923	12721	Nevada, California and Oregon Telegraph and Telephone Company	Supplemental order granting authority to establish toll telephone and telegraph station at Mineral, Tehama County, as per Decision No. 17118	Jan. 24, 1927

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TABLE E—MISCELLANEOUS AND SUPPLEMENTAL ORDERS—Continued.

Dec. No.	App. No.	Applicant	Nature of proceedings	Date
17930	13387	City of San Diego and Cuyamaca Water Company	Authorizing former to lease from latter that portion of water system serving consumers in East San Diego	Jan. 26 1927
17934	5097	San Francisco-Richmond Ferry Company	Supplemental order authorizing use of proceeds from sale of stock—Decision No. 8144	Jan. 26, 1927
17935	7492	E. F. Gardner (Monticello Stage Company)	Supplemental order revoking certificate to operate auto stage service between Monticello and Walter Springs via Oak Grove and Samuels Springs	Jan. 24, 1927
17936	8071	John S. Hencratt	Supplemental order revoking certificate to operate auto passenger and freight service between Red Bluff and Gold Fork via Hunter—Decision No. 10741	Jan. 24, 1927
17937	8199	Joseph Fauci	Supplemental order revoking certificate to operate auto freight service between San Jose and vicinity and Oakland and San Francisco—Decision No. 10938	Jan. 26, 1927
17938	11261	Clarence E. Hartman	Supplemental order revoking certificate to operate auto freight service between Los Angeles and Burbank—Decision No. 16332	Jan. 26, 1927
17939	13188	California Wharf and Warehouse Company	Supplemental order approving stipulation for renewal of wharf franchise granted by Board of Supervisors of Contra Costa County	Jan. 26, 1927
17940	13039	Yosemite Valley Railroad Company	Second supplemental order authorizing reduction of service previously authorized between Merced and El Portal—Decision No. 17763	Jan. 26, 1927
17945	C2298	Associated Oil Company vs. Pacific Electric Railway Company	Refund ordered on shipments of petroleum crude oil from Sentous to Wilmington	Jan. 28, 1927
17948	12437	Alameda Transportation Company	Granting permission to charter and operate temporary vessel in its service between Oakland and San Francisco while vessel "Jessie Matson" is in dry dock	Feb. 2, 1927
17949	13484	Tuxedo Land Company and C. B. Jackson	Former authorized to sell and transfer to latter water plant in Tuxedo Park, city of Stockton, for sum of $22,500	Feb. 2, 1927
17952	12948	City of Oakland	Sustaining previous decision No. 17136, after rehearing, relative to constructing Ninety-second Avenue across tracks of the Western Pacific Railroad Company	Feb. 2, 1927
17954	10772	Southern Pacific Company	Revoking prior order and dismissing application—grade crossing at Thenard Station, city of Los Angeles	Feb. 2, 1927
17958	13279	The Atchison, Topeka and Santa Fe Railway Company	Granting authority to abandon and remove railroad extending from Perris to Elsinore Junction, county of Riverside	Feb. 5, 1927
17961	13357	Southern Pacific Company	Granting authority to abandon non-agency station of Blanchards in Ventura County	Feb. 5, 1927
17962	13111, 13112	Thousand Oaks Water Company	Order denying rehearing (Decision No. 17542) for certificate	Feb. 5, 1927
17965	13284	Southern Pacific Company	Granting authority to abandon non-agency station of Branagan in Orange County	Feb. 7, 1927
17967	13422	Southern Pacific Company	Granting authority to abandon non-agency station of Corbin in Alameda County	Feb. 7, 1927
17968	13425	Southern Pacific Company	Granting authority to abandon non-agency station of Sedan in Alameda County	Feb. 7, 1927
17969	11548	Tonopah Trucking Company, Inc.	Supplemental order revoking certificate to operate auto passenger, baggage and express service between Big Pine and Oasis—Decision No. 15469	Feb. 7, 1927
17970	13039	Yosemite Valley Railroad Company	Third supplemental order revoking certificate to operate auto passenger and baggage service between Merced and El Portal via Briceburg and Mariposa—Decision No. 17584 and 17763	Feb. 7, 1927
17982	13343	The Atchison, Topeka and Santa Fe Railway Company	Approving agreement with San Diego and Arizona Railway Company for joint use of certain trackage and station facilities in San Diego	Feb. 8, 1927
17985	13443	City of Palo Alto and Southern Pacific Company	Granting authority to widen existing crossing of Embarcadero Road	Feb. 8, 1927

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17986	5873	B. and H. Transportation Company	Supplemental order revoking certificate to operate auto passenger service in territory annexed by city of Long Beach	Feb. 8, 1927
17987	5893	B. and H. Transportation Company	Supplemental order revoking certificate to operate auto passenger service in territory recently annexed by city of Long Beach	Feb. 8, 1927
17988	6125	B. and H. Transportation Company	Supplemental order revoking certificate to operate auto passenger service in territory annexed by city of Long Beach—Decision No. 8136	Feb. 8, 1927
17989	6538	B. and H. Transportation Company	Supplemental order revoking certificate to operate auto passenger service in territory annexed by city of Long Beach—Decision No. 8689	Feb. 8, 1927
17990	11214	K. Oganesoff and T. Oskanoff	Supplemental order amending Decision No. 16406—to eliminate certain territory	Feb. 8, 1927
17991	13208	J. F. Partington	Authorized to establish rates for electric service in town of Groveland, Tuolumne County, estimated to produce a gross revenue of $2,050 per year	Feb. 11, 1927
17995	6307	Southern Counties Gas Company of California	Sixth supplemental order authorizing use of proceeds from sale of bonds for sinking fund purposes	Feb. 11, 1927
17997	12622	Hermosa-Redondo Water Company	First supplemental order authorizing use of proceeds from sale of bonds—Decision No. 16422	Feb. 11, 1927
17998	13489	Key System Transit Company	Supplemental order amending description of motor bus route in city of Oakland	Feb. 11, 1927
18000	11870	Southern Pacific Company	Revoking prior order and dismissing application—spur track crossing in vicinity of Vacaville	Feb. 11, 1927
18006	12713	Sunland Rural Telephone Company	Supplemental order authorizing use of proceeds from sale of stock—Decision No. 16572	Feb. 14, 1927
18007	13325	Crescent City Wharf and Dock Company	Supplemental order approving stipulation for renewal of wharf franchise granted by county of Del Norte	Feb. 14, 1927
18010	13138 C2263	V. W. Bowers M. P. Fischer (Downieville Stage Company) vs. V. W. Bowers	Directing V. W. Bowers to cease operation of unauthorized auto passenger and freight service between Nevada City and Downieville	Feb. 23, 1927
18012	13472	Pacific Electric Railway Company	Granting authority to abandon agency at Loftus Station, Orange County	Feb. 23, 1927
18014	13485	East Bay Water Company	Authorized to sell certain real property in city of Oakland, Alameda County, not required for public utility operations	Feb. 23, 1927
18015	13500	River Bend Gas and Water Company	Authorized to issue promissory notes	Feb. 23, 1927
18016	13504	The Western Pacific Railroad Company	Granting authority to abandon agency station at Hackstaff, Lassen County	Feb. 23, 1927
18019	13458	Whittier Home Telephone and Telegraph Company	First supplemental order modifying Decision No. 17953 to permit issue and sale of 3,000 shares of common capital stock	Feb. 23, 1927
18026	12620	Southern Pacific Company	Authorized to discontinue agent at station of Glenwood in Santa Cruz County	Feb. 24, 1927
18029	12991	Alturas Electric Power Company and Peoples California Hydro-Electric Corporation	Second supplemental order granting extension of time for the former to sell to the latter its properties (Decision No. 17393)	Feb. 24, 1927
18030	C2237	E. K. Loosely vs. Southern Pacific Company	Order denying defendant's petition for rehearing	Feb. 24, 1927
18031	11961	Pacific Electric Railway Company	Revoking prior order and dismissing application—grade crossing, Rialto Avenue and D Street, city of San Bernardino	Feb. 24, 1927
18032	12215	Sacramento Northern Railway	Revoking prior order and dismissing application—grade crossing, Union Avenue, town of Fairfield	Feb. 24, 1927
18042	13166 13167	Pickwick Stages System	First supplemental order amending Decision No. 17433—changing equipment to be purchased, and authorizing use of proceeds from sale of equipment trust certificates and common stock	Mar. 2, 1927
18043	13340	Key System Transit Company	Third supplemental order modifying Decision No. 17759—authorizing use of proceeds from sale of bonds	Mar. 2, 1927
18053	13486	Sacramento Northern Railway	Authorized to discontinue operation of passenger service over its Suisun-Vacaville branch in Solano County	Mar. 14, 1927
18054	13423	Southern Pacific Company	Granting authority to abandon non-agency station of Fitchburg in Alameda County	Mar. 14, 1927
18055	13424	Southern Pacific Company	Granting authority to abandon non-agency station of Hutchinson in Alameda County	Mar. 14, 1927
18058	13492	Southern Pacific Company	Granting authority to abandon non-agency station of Chalon in Monterey County	Mar. 14, 1927

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TABLE E—MISCELLANEOUS AND SUPPLEMENTAL ORDERS—Continued.

Dec. No.	App. No.	Applicant	Nature of proceedings	Date
18067	13483	California, Shasta and Eastern Railway	Granting authority to discontinue line of railroad between Anderson and Bella Vista in county of Shasta, as common carrier for period of three years	Mar. 14, 1927
18073	8845	John W. Martin	Second supplemental order revoking certificate to operate auto passenger service between Hollywood and Culver City—Decision No. 12198	Mar. 14, 1927
18074	9095	San Diego Electric Railway Company	Supplemental order amending motor bus route in city of San Diego—Decision No. 13114	Mar. 14, 1927
18077	10604	Southern Pacific Company	Revoking prior order and dismissing application (Decision No. 14323) grade crossing, Marengo Avenue, city of Alhambra	Mar. 14, 1927
18079	C1946	S. Brice Cowan vs. Richards Trucking and Warehouse Company	Ordering defendant to cease operation of service between Los Angeles and Olinda, Richfield, Yorba Linda, Villa Park, Olive, El Modena and Santa Fe Springs, until certificate has been obtained from the Commission	Mar. 14, 1927
18085	C2006	Bakersfield and Los Angeles Fast Freight Company and Los Angeles and West Side Transportation Company vs. Mike Lang, Mike Lang Transportation Company, et al.	Reaffirming previous order (Decision No. 17088)	Mar. 21, 1927
18086	13498	Southern Pacific Company	Granting authority to abandon agency at Lamoine Station in Shasta County	Mar. 21, 1927
18087	13512	American Railway Express Company	Granting authority to abandon agency at Lamoine Station in Shasta County	Mar. 21, 1927
18089	13569	South San Francisco Belt Railway and Southern Pacific Company	Approving agreement for joint use of trackage owned by former in South San Francisco, San Mateo County	Mar. 21, 1927
18094	4264	Roscoe Venard	Supplemental order revoking certificate to operate auto passenger and express service between Cutler and Badger (Decision No. 6018)	Mar. 21, 1927
18095	5367	Southern Pacific Railroad	Revoking prior order and dismissing application—grade crossing, Stierlin Street and Railroad Avenue, town of Mountain View	Mar. 21, 1927
18097	12892	Pacific Gas and Electric Company	Dismissing application to have Commission determine portion of each semi-annual payment to be made by Yuba Development Company under agreement dated July 19, 1922	Mar. 21, 1927
18101	13429	Pacific Gas and Electric Company	Supplemental order authorizing execution of agreement with C. B. Jackson, representing California Water Service Company, covering water purchased by Pacific Gas and Electric Company from Jackson or California Water Service Company from water plants transferred by the Gas Company to Jackson or California Water Service Company	Mar. 24, 1927
18102	13429 13514	Pacific Gas and Electric Company California Water Service Company	Supplemental order amending previous order authorizing Pacific Gas and Electric Company to transfer certain of its water plants to California Water Service Company direct instead of C. B. Jackson, agent of that company	Mar. 24, 1927
18106	13136	Southern Pacific Company	Supplemental order modifying Decision No. 17320—grade crossing, Ontario Avenue, city of Ontario	Mar. 25, 1927
18109	7384	County of San Bernardino	Order revoking prior order and dismissing application—grade crossing, at Meridian Street near Rialto	Mar. 28, 1927
18110	9230	City of Venice	Order revoking prior order and dismissing application—grade crossing, Venice Boulevard	Mar. 28, 1927
18112	12953	The Atchison, Topeka and Santa Fe Railway Company	Revoking prior order after rehearing (Decision No. 17484) and granting permission to construct spur track at grade across county road in the vicinity of Rheem, Contra Costa County	Mar. 28, 1927

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18120	C2245	Charles Kuppinger vs. J. R. Martin	Revoking and annulling certificate granted to Martin to operate an auto passenger and freight service between Lakeport and Upper Lake, and Ukiah, and a passenger service between Lakeport and Ukiah	Mar. 29, 1927
18123	13239	Pacific Electric Railway Company	Granting authority to abandon and remove tracks on San Antonio Heights line in county of San Bernardino	Mar. 30, 1927
18127	13457	East Gardena Water Company and Board of Water and Power Commissioners of city of Los Angeles	Authorizing former to sell and transfer to latter certain strip of land	Mar. 30, 1927
18138	13467	County of San Diego	First supplemental order amending Decision No. 18057—grade crossing between La Corta and Ramon Streets	Mar. 30, 1927
18140	13570	American Railway Express Company	Granting authority to abandon agency at Loftus, Orange County	Mar. 30, 1927
18148	13269	Calistoga and Clear Lake Stage Company	Order modifying and amending Decision No. 18061—auto stage service between Sacramento and Middletown	Mar. 30, 1927
18149	13622	The Western Union Telegraph Company	Granting authority to discontinue telegraph office in town of Heber, Imperial County	Mar. 30, 1927
18151	13527	Spreckels Brothers Commercial Company	Authorized to abandon certain property in city of San Diego known as Spreckels Wharf	April 2, 1927
18155	13125	Los Angeles County Water Works	Authorized to discontinue operation of 12-inch irrigation pipe line located on Vermont Avenue between Southern and Rosecrans Avenues in Los Angeles County	April 4, 1927
18172	13541	Spring Valley Water Company	Authorized to transfer certain lands and rights of way in San Mateo County to South San Francisco Land and Improvement Company	April 5, 1927
18175	8236	H. H. Hessig	Supplemental order revoking and annulling certificate to operate auto passenger and freight service between Beswick and Ager	April 6, 1927
18176	C2306	P. E. Tibbetts, Railroad Commission's investigation into operations of	Ordering P. E. Tibbetts (W. and S. Truck Company) to cease and desist using any other bills of lading, shipping bills, or other bills that do not bear the title of the W. and S. Truck Company	April 6, 1927
18181	13547	Pacific Electric Railway Company and Pacific Electric Land Company	Authorizing former to sell to latter certain parcels of land along Newport Beach line, partly in city of Long Beach and partly in city of Seal Beach, Orange County	April 6, 1927
18183	9529	Flintridge Motor Company and Pacific Electric Railway Company	Second supplemental order authorizing rerouting of motor bus line operated under lease by the latter company from the former in Pasadena	April 6, 1927
18191	13556	LeRoy W. Gast (Central Square Water Supply)	Granting authority to sell and transfer to Nelson R. Crow public utility water system near Vernon, Los Angeles County	April 7, 1927
18196	13538	Union Oil Company of California	Authorized to execute franchise granted by Board of Supervisors of Contra Costa County for construction and operation of public utility wharf in New York slough in said county	April 7, 1927
18200	3744	Ben J. Byles	Supplemental order revoking and annulling certificate to operate auto passenger and parcel service between Coalinga and Paso Robles	April 7, 1927
18201	8376	John F. Faria	Supplemental order revoking certificate to operate auto milk and cream service from Newark, Arden, Midway, Alvarado and San Lorenzo to Oakland	April 7, 1927
18202	9466	Southern California Edison Company	Third supplemental order authorizing execution of supplemental trust indenture	April 7, 1927
18203	13171	Roseville Water Company	Third supplemental order approving stipulation in connection with creation of bonded indebtedness, and authorizing company to proceed with issuance of bonds	April 7, 1927
18206	C2300	Ojai-Ventura and Los Angeles Express	Further extending until July 11, 1927, the period of suspension of application of rates from and to intermediate points between Los Angeles and Ventura as set forth in Tariff C.R.C. No. 7	April 7, 1927
18207	5269 7472 C2025	United Stages, Inc. L. J. Austin, Walter Boyd and Carl E. Ingalls Pacific Electric Railway Company vs. A. M. King, et al.	Dismissing application No. 7472 and setting aside submission of Application No. 5269 and setting the matter for hearing	April 7, 1927
18208	10368 10406	Community Bus Lines Pacific Electric Railway Company	Dismissing complaint in Case 2025, and setting aside submission of Application Nos. 10368 and 10406 and setting the matters for hearing	April 7, 1927

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18209	13669	Key System Transit Company and the Golden Gate Ferry Company	Former authorized to lease to latter the two ferry boats "Fernwood" and "San Francisco" for period of three years	April 9, 1927
18214	10942	Southern Pacific Company	First supplemental order granting permission to relocate crossing of Carroll Avenue in city and county of San Francisco (Decision No. 14718)	April 11, 1927
18215	11566	Kister and Lawton	Supplemental order revoking certificate to operate auto truck service between Oroville, on the one hand, and Palermo, Durham, Corning and Olinda, on the other hand	April 11, 1927
18223	13631	Southern Pacific Company	Authorized to abandon non-agency station of Standard in Napa County	April 13, 1927
18224	13641	The Atchison, Topeka and Santa Fe Railway Company	Authorized to abandon non-agency station of Klinefelter in San Bernardino County	April 13, 1927
18228	12886	Enrico N. Cuneo	Supplemental order amending Decision No. 18100—auto stage service between Cook's Station and Ranger Station, Amador County	April 13, 1927
18230	13586	American Railway Express Company	Authorized to abandon agency at Glenwood, Santa Cruz County	April 13, 1927
18231	13640	The Atchison, Topeka and Santa Fe Railway Company	Authorized to abandon non-agency station of Medano, Madera County	April 13, 1927
18236	7697	Morris Draying Company	Supplemental order revoking certificate to operate auto truck service in counties of Contra Costa, Santa Clara and Alameda	April 14, 1927
18237	11296	Morris Draying Company	Supplemental order revoking certificate to operate auto truck service between San San Francisco and Oakland and Emeryville and Berkeley	April 14, 1927
18238	11404	John H. and Rexford Colby	Supplemental order revoking certificate to operate auto truck service between Sacramento and Walnut Grove and other points	April 14, 1927
18239	12367	Morris Draying Company	Supplemental order revoking and annulling certificate to operate auto truck service from Libby's Canal Ranch, San Joaquin County, to canneries located at Locke, Ryde and Isleton (Decision No. 16520)	April 14, 1927
18243	13539	Imperial Utilities Corporation	First supplemental order granting authority to execute mortgage and/or deed of trust	April 15, 1927
18250	13384	I. and L. L. Colodny	Granting certificate to operate water system for domestic and irrigation purposes in Tract No. 8451, Los Angeles County, and fixing rates	April 18, 1927
18253	13518	Goodrich Brothers	Authorized to discontinue water service to consumers in Tract No. 6441, Los Angeles County	April 20, 1927
18257	10207	H. V. Iredell	Supplemental order revoking and annulling certificate to operate auto passenger and package service between Santa Ana and Serra	April 20, 1927
18258	12239	S. W. Linderman	Supplemental order revoking and annulling certificate to operate auto truck service between San Francisco and Colma, and San Francisco and Oakland	April 20, 1927
18259	13331	County of San Diego	Supplemental order modifying Decision No. 17966—grade crossing on Golden Avenue	April 20, 1927
18260	11423	E. N. Matson	Supplemental order amending certificate to operate auto truck service between West Point and Martell to provide alternate route	April 20, 1927
18261	13543	California Transit Company	First supplemental order modifying Decision No. 18080 to permit use of proceeds from issue of note	April 20, 1927
18265	6700	J. D. Maynard	Supplemental order revoking and annulling certificate to operate auto truck service as contract carrier between Betabel and Gilroy and Oakland via state highway, and between Betabel and Gilroy and San Francisco	April 20, 1927
18266	7773	T. J. Silva	Supplemental order revoking and annulling certificate to operate auto truck service between East San Jose, San Leandro and intermediate points to Oakland and San Francisco	April 20, 1927

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18267	11801	Coastside Transportation Company	Supplemental order modifying Decision No. 18025, auto truck service between San Francisco and Half Moon Bay	April 20, 1927
18273	7957	O. G. Williams	Supplemental order revoking and annulling certificate to operate auto passenger and freight line between San Miguel and Stone Canyon	April 26, 1927
18274	8613	S. L. James	Supplemental order revoking and annulling certificate to operate auto passenger and freight service between Mariposa, Mt. Bullion and Bagby	April 26, 1927
18281	10089	Lingo Brothers	Revoking operative rights to operate motor freight service between San Bernardino and Redlands, and San Bernardino Mountain resorts, and auto passenger, express and freight service between San Bernardino and Los Angeles County Park	April 27, 1927
18284	8141	James W. Smith	Supplemental order revoking and annulling certificate to operate auto stage service between Aukum and Plymouth	April 27, 1927
18285	9982	Oakland-Tuolumne Stage Line	Supplemental order revoking certificate to operate auto stage service between Oakland and Berkeley and recreation camps in Tuolumne County	April 27, 1927
18286	13636	California Transportation Company	First supplemental order authorizing execution of revised mortgage and/or deed of trust guaranteeing bond issue heretofore authorized	April 27, 1927
18297	13579	American Railway Express Company	Granting permission to abandon agency of Lafayette, Contra Costa County	April 27, 1927
18302	13298	Petaluma and Santa Rosa Railroad Company	First supplemental order amending Decision No. 17679, grade crossings, city of Santa Rosa	April 29, 1927
18303	11719	El Camino Canal Company	Denying petition of T. R. LePage, et al., protestants, for rehearing of matters relating to transfer of properties, etc.	April 29, 1927
	13270	California Tehama Land Corporation, El Camino Irrigation District and El Camino Canal Company		
	13292	Finnell Land Company		
	13293	Pacific Land Corporation		
18304	9467	City of Kingsburg	Order revoking prior order and dismissing application, grade crossing, Ellis Street (Decision No. 13455)	April 29, 1927
18305	10871	Pacific Electric Railway Company	Order revoking prior order and dismissing application—grade crossing, Border Avenue and 222d Street, city of Torrance (Decision No. 14636)	April 29, 1927
18307	C2351	Pan American Petroleum Company vs. Pacific Electric Railway Company	Ordering defendant to refund to complainant all charges collected in excess of 3½ cents per 100 pounds for transportation of four carloads of scrap steel from Watson to Torrance and Los Angeles	April 29, 1927
18308	C2346	Commission's investigation into Freight Tariff No. 3068, etc.	Southern Pacific Company and Western Pacific Railroad Company ordered to cancel proposed rate of 7½ cents per 100 pounds for transportation of brick from Stockton to Marysville	May 2, 1927
18311	13557	T. S. Marlor	To operate vessels on Clear Lake between Lakeport, Clear Lake Highlands, Clear Lake Park, Clear Lake Oaks, Clear Lake Beach and all intermediate points	May 3, 1927
18318	13616	Southern Pacific Company	Granting authority to abandon non-agency station of Chimnti, Fresno County	May 3 1927
18323	11193	Santa Barbara Transfer Company	Supplemental order revoking and annulling certificate to operate auto truck service between Santa Barbara and various named points	May 3, 1927
18324	11445	Southern Pacific Company	First supplemental order modifying Decision No. 15880—grade crossing, Jerrold Avenue, city and county of San Francisco	May 3, 1927
18325	12011	John Shrode	Supplemental order revoking certificate to operate auto truck service between Los Angeles and Coachella Valley (Decision No. 17819)	May 3, 1927
18326	13201	Southern Pacific Company	Second supplemental order modifying Decision No. 17419—grade crossing at Spence Street, city of Monterey	May 3, 1927
18327	12526	Pacific Electric Railway Company	Order revoking prior order and dismissing application—grade crossing, East Ninth Street, city of Los Angeles	May 3, 1927
18331	13713	Cousins Launch and Lighter Company	Authorized to cancel on 15 days notice all freight and passenger rates, fares and tariffs for transportation of persons and property between points on Humboldt Bay	May 6, 1927

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18338	3996	Charles Dubourdieu, Jr.	Supplemental order revoking certificate to operate auto stage service between Chilcoot and Downieville (Decision No. 7226)	May 9, 1927
18339	7908	J. H. Taresh	Supplemental order revoking certificate to operate auto stage line between Vermont and Genessee (Decision No. 10557)	May 9, 1927
18340	13614	County of Napa	First supplemental order modifying Decision No. 18144—grade crossing, permitting watchman at crossing on such days as school is in session	May 9, 1927
18346	13701	Southern Pacific Company	Granting permission to change its double track crossings to single track crossings at grade with tracks of Key System Transit Company at intersection of The Alameda and Solano Avenue in city of Berkeley, and at San Pablo Avenue with Solano Avenue in city of Albany; and also to change its double track crossing to single track crossing at grade with track of The Atchison, Topeka and Santa Fe Railway Company on Solano Avenue near Masonic Avenue in city of Albany	May 13, 1927
18348	C1698	Home Telephone Company of Covina	Extension of time granted until August 1, 1927, in which to comply with statutes governing overhead electric line construction (Chapters 499–600)	May 13, 1927
18349	C1698	City of Los Angeles	Extension of time granted until January 1, 1928, in which to comply with statutes governing overhead electric line construction (Chapters 499–600)	May 13, 1927
18350	C1698	Los Angeles Gas and Electric Corporation	Extension of time granted until January 1, 1928, in which to comply with statutes governing overhead electric line construction (Chapters 499–600)	May 13, 1927
18358	13642	Spring Valley Water Company and Panama Realty Company	Authorizing transfer of certain properties in San Mateo County	May 14, 1927
18363	6364	Welch Brothers	Supplemental order revoking and annulling certificate to operate auto stage line from city of Nilands, Imperial County, to city of Blythe, Riverside County (Decision No. 8484)	May 14, 1927
18364	7351	Jennie A. Wells	Supplemental order revoking and annulling certificate to operate auto milk truck service between Los Angeles and Rivera (Decision No. 9802)	May 14, 1927
18365	11967	R. F. Ware	Supplemental order revoking and annulling certificate to operate auto truck service between Los Angeles and various southern California points (Decision No. 16026)	May 14, 1927
18366	12325	Stimson, Holbrook and Shuler Transit Company	Supplemental order revoking and annulling certificate granted in Decision No. 16495	May 14, 1927
18367	13041	W. B. Gelatt	Supplemental order amending Decision No. 17173, re transfer of horsedrawn sleigh service over which Commission has no jurisdiction	May 14, 1927
18371	13511	Trona Railway Company	Granting permission to abandon non-agency station at Borosolvay and remove station facilities, with exception of one spur track connection; also to abandon non-agency station in so far as passengers and express only are concerned at Magnesium; and denying permission to abandon non-agency station at Spangler	May 17, 1927
18374	13673	American Railway Express Company	Granting permission to abandon agency station of Arrowhead, San Bernardino County	May 17, 1927
18376	11361	Hair Truck Company	Supplemental order revoking and annulling certificate to operate auto truck service between Riverside and points in contiguous territory	May 17, 1927
18377	12706	John Smalley (Stockton-Jackson Auto Line)	Supplemental order revoking and annulling certificate granted in Decision No. 18100	May 17, 1927
18379	13683	The Atchison, Topeka and Santa Fe Railway Company	Granting permission to close agency station at Yettem, Tulare County, from December 1 to July 1, each year	May 17, 1927
18380	13704	American Railway Express Company	Granting permission to abandon agency station at Yettem, Tulare County	May 17, 1927

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18383	10780	Richmond Navigation and Improvement Company	Supplemental order revoking certificate to operate auto truck service between San Francisco and Richmond, San Pablo, Stege and El Cerrito via Southern Pacific ferry between San Francisco and Richmond	May 18, 1927
18388	C2321	J. H. Malone vs. Northwestern Pacific Railroad Company	Granting permission to complainant to construct private crossing at grade across right of way and track of defendant company near Sebastopol, Sonoma County	May 24, 1927
18402	12807	Southern Pacific Company	Authorized to discontinue agent at station of Boca, Nevada County, and to maintain same as non-agency station	May 25, 1927
18408	13761	California Telephone and Light Company and Sulphur Bank Syndicate	Approving contract for supplying of electric energy by former to latter at its plant in Lake County	May 25, 1927
18409	13767	Pickwick Stages System and Auto Transit Company	Authorized to publish on five days' notice through joint one-way and round trip passenger fares between Los Angeles and San Francisco via Salinas, Monterey and Santa Cruz	May 25, 1927
18413	13604	Key System Transit Company	Authorized to abandon Spruce Street Motor Coach Line between Los Angeles Avenue and Alta Road in city of Berkeley	May 26, 1927
18415	13606	Southern Pacific Company	First supplemental order modifying Decision No. 18168—grade crossing, Twenty-sixth and Campbell Streets, city of Oakland	May 27, 1927
18416	13615	El Dorado Water Corporation and El Dorado Irrigation District	First supplemental order amending Decision No. 18289—transfer of irrigation system and water properties	May 31, 1927
18422	8985	John H. Heriford	Supplemental order revoking and annulling certificate to operate auto passenger and freight service between Lemoore and Murray	June 1, 1927
18423	9199	Charles W. King	Supplemental order revoking and annulling certificate to operate auto stage line between Ravendale and Glade, Lassen County	June 1, 1927
18424	11515	Consolidated Utilities Company	Second supplemental order authorizing use of proceeds from sale of stock (Decision No. 15329)	June 1, 1927
18425	11550	Zwissig Brothers	Supplemental order revoking and annulling certificate to operate auto milk truck service between Decoto and San Francisco (Decision No. 16317)	June 1, 1927
18426	12210	Weir Transfer and Storage	Supplemental order revoking certificate to operate on call auto freight service between Belvedere and Los Angeles, and auto baggage service between Belvedere and any depot in Los Angeles (Decision No. 16563)	June 1, 1927
18427	13340	Key System Transit Company	Fourth supplemental order authorizing use of proceeds from sale of bonds (Decision No. 17759)	June 1, 1927
18428	13697	Southern Pacific Company	First supplemental order amending Decision No. 18320—grade crossing at M Street, city of Merced	June 1, 1927
18429	13474	Union Pacific Stage Company	Supplemental order amending Decision No. 18337—auto stage service to Death Valley	June 1, 1927
18430	13748	George J. Carr	Supplemental order granting permission to transport express packages not exceeding 100 pounds per parcel between Redwood City and San Gregorio and La Honda (Decision No. 18353)	June 1, 1927
18431	C1698	Needles Gas and Electric Company	Extension of time granted until October 1, 1927, in which to comply with statutes governing overhead electric line construction (Chapters 499–600)	June 1, 1927
18437	13722	Southern Pacific Company and Pacific Coast Railway Company	Authorized to exchange parcels of land in city of San Luis Obispo	June 1, 1927
18439	13768	Southern Pacific Company	Authorized to abandon non-agency station of Armbrust, San Joaquin County	June 1, 1927
18440	13780	Roy Wilbur and H. Dizdar	Former authorized to transfer to latter water system serving consumers in Camarillo and vicinity, Ventura County	June 1, 1927

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18445	13466	Noel Negley	Denying authority to maintain private crossing at grade over track of Tidewater Southern Railway Company in vicinity of Escalon, San Joaquin County	June 1, 1927
18447	13505	The Western Pacific Railroad Company	Granting authority to abandon its agency at Omira, Lassen County, and establish same as prepay non-agency station	June 1, 1927
18448	13548	American Railway Express Company	Authorized to abandon agency at Omira, Lassen County	June 1, 1927
18451	13803	Pacific Gas and Electric Company and Diamond Match Company	Authorized to execute contract for service of power for period of eight years	June 1, 1927
18458	13830	Southern California Edison Company and county of Los Angeles	Authorized to enter into contract covering supplying of electricity to Big Pine Recreation Camp	June 3, 1927
18459	10973	Los Angeles Railway Corporation	Supplemental order granting authority to re-route auto bus service between Los Angeles and city of Inglewood (Decision No. 15100)	June 3, 1927
18465	9977	Southern Pacific Company	Order revoking prior order and dismissing application—grade crossing Thenard Station, city of Los Angeles	June 3, 1927
18469	13499	Glendale and Montrose Railway and Los Angeles and Salt Lake Railroad Company	Approving agreement for joint operation of tracks, station facilities, etc., in city of Glendale	June 4, 1927
18471	13513	American Railway Express Company	Granting authority to discontinue agent at Boca, Nevada County, and to continue same as non-agency prepay station	June 4, 1927
18472	13742	Pacific Electric Railway Company	Granting authority to abandon and remove passenger shelter station at junction of Riverside-Redondo Boulevard and Vermont Avenue, Los Angeles County	June 4, 1927

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